

COUNCIL MEETING

SEPTEMBER 7, 2016

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, September 7, 2016 at 8:32 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock

Honorable Gary L. Hooser (*present at 8:36 a.m.*)

Honorable Ross Kagawa

Honorable Arryl Kaneshiro

Honorable KipuKai Kuali'i (*present at 8:34 a.m.*)

Honorable JoAnn A. Yukimura (*excused at 12:15 p.m. – 1:47 p.m.*)

Honorable Mel Rapozo

APPROVAL OF AGENDA.

Councilmember Kagawa moved for approval of the agenda as circulated, seconded by Councilmember Chock, and carried by a vote of 5:0:2 (*Councilmembers Hooser and Kuali'i were excused*).

Council Chair Rapozo: There is a public hearing at 1:30 p.m. today, as well as a 2:00 p.m. Executive Session for County Auditor interviews. Those are the only things that we have scheduled for today. There has been a request to remove C 2016-188 off of the Consent Calendar, as we have a speaker that would like to testify that is not able to stay. Can I get a motion to receive C 2016-186 and C 2016-187, please?

CONSENT CALENDAR:

C 2016-186 Communication (08/08/2016) from the Director of Liquor Control, transmitting for Council information, changes to the fee structure of the Rules & Regulations of the Liquor Control Commission, and pursuant to Hawai'i Revised Statutes (HRS) Section 281-17.5, requesting Council approval of Rule 2.8, Rule 3.11, Rule 4.1, and Rule 4.7: Councilmember Kagawa moved to receive C 2016-186 for the record, seconded by Councilmember Chock, and carried by a vote of 5:0:2 (*Councilmembers Hooser and Kuali'i were excused*).

C 2016-187 Communication (08/15/2016) from the Director of Finance, transmitting for Council information, the Inventory Report for the Fiscal Year Ending June 30, 2016: Councilmember Kagawa moved to receive C 2016-187 for the record, seconded by Councilmember Chock, and carried by a vote of 5:0:2 (*Councilmembers Hooser and Kualii were excused*).

Council Chair Rapozo: Can we have C 2016-188, please?

There being no objections, C 2016-188 was taken off of the Consent Calendar.

COMMUNICATIONS:

C 2016-188 Communication (08/23/2016) from Councilmember Yukimura, transmitting for Council consideration, a Resolution Amending Resolution No. 2015-02, Draft 1, And Resolution No. 2015-62, Relating To The Rules Of The Council Of The County Of Kaua'i For The Organization Of Committees And The Transaction Of Business, to allow members of the public a total of eighteen (18) minutes at the beginning of the agenda of any Council or Committee meeting to speak on any agenda item; and allows for public speaking per Rule No. 11(c)(8) to come as the first order of business after the roll call and the approval of the agenda and minutes: Councilmember Kagawa moved to receive C 2016-188 for the record, seconded by Councilmember Chock.

Council Chair Rapozo: With that, I will suspend the rules. Mr. Mickens, you may come up to testify.

There being no objections, the rules were suspended to take public testimony.

GLENN MICKENS: Good morning Councilmembers. For the record, Glenn Mickens. Thank you for taking this off of the Consent Calendar for me. You have copy of my testimony. I know you cannot answer my questions, but I am hoping that at least in writing somehow or verbally after the meetings it is something you will address anything I say, whether you like it or you do not like it. Please address it. For simplistic reasons, I do like this Communication and Resolution No. 2016-56. For the public, I believe it is easier to understand that they can speak for a possible six (6) minutes on any agenda item early if they need to. I had no problem with the way our Chair ran our recent testimonies and liked his idea of keeping our meetings as short as possible, but I firmly believe that with either methods of testimony, the public should be extended the courtesy of answers to their questions or comments, verbally or in writing. I do want to make sure that if any other item on the agenda comes up and the speaker did not speak to it early, then they have the right to speak to it at that time and they should have the right to speak for another three (3) to six (6) minutes on that subject or any other subject

if it is their first time to testify. Yes, it is clear under Rule No. 13(e) and Hawai'i Revised Statutes (HRS) 92-3 that a testifier has the right to testify early on any agenda item in the eighteen (18) minute time period, if it comes back again. Does he have a total of three (3) and three (3) minutes, no matter how many items he picks to talk about, the same as he does in the regular agenda time since his and other early testifiers could take up the total eighteen (18) minutes as the rule states that "the speaker will not be allowed to give testimony later in the day?" Is he not being prevented from testifying on any and all issues that he wants to? Rule No. 13(e) was designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. If the speaker has an agenda item that will not be brought up until the afternoon and he cannot be there at that time and use his early time to speak on it, but can remain until noon and wants to testify on another item, why should he be denied that right under the Sunshine Law? Obviously, no speaker should be allowed to speak twice on any one subject; that is common sense, but should not be prevented from testifying on any other subject on the agenda. It would be nice if the public had a fifteen (15) minute time period before the meeting began to talk on any government-related subject that they want. So many times an issue is deferred or just dropped altogether and it is still an important enough issue with the public to bring it up again, which can have a very positive effect. We talk all of the time about more open government and this method could only make government more transparent, no matter how the vote goes. I will finish that later. Thank you.

(Councilmember Kualii was noted as present at 8:34 a.m.)

(Councilmember Hooser was noted as present at 8:36 a.m.)

Council Chair Rapozo: Anyone else wishing to testify on this matter? Your testimony for this Communication will be carried over to the Resolution as well, so if you want to speak on this, you can do so now. If not, I will call the meeting back to order. Councilmember Yukimura.

There being no further public testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: I have a point of clarification. For this upfront testimony, it is limited to three (3) minutes. The person does not have the right to come back for another three (3). So it is three (3) minutes on a subject, or if they want to try to cover many subjects they can do that, but because this is sort of an exception to the rule, we are doing it like that.

Council Chair Rapozo: Thank you. Any other discussion?
Councilmember Kagawa.

Councilmember Kagawa: Everybody can look at something two (2) different ways. I hear what you are saying, Glenn, that why not have the fifteen (15) minutes or eighteen (18) minutes prior to the meeting starting for anybody who wants to testify on an item and cannot stay. I understand that; that would be great. The reason why we changed the rule and took it out when we reorganized this Council at the last election was that the Office of Information Practices (OIP) had a concern whether there were more than eighteen (18) minutes of speakers that wanted to speak. Say they were twenty (20) people, like when we had Bill No. 2491, that wanted to speak before the meeting started—we would have to cut them off at eighteen (18) minutes and the other people waiting...what would that be...the other four (4) people or what have you, would have to wait until the item got discussed and it may be eight (8) hours later and they would have to wait in order to testify, and a lot of them would leave. Again, in all fairness, OIP wanted...if we were talking about having more participation by the public, what that eighteen (18) minute rule does is cut off participation beyond that for people that want the same right to testify prior to a meeting. Again, this Council tried to be fair to everyone when we reorganized. You can say that it is unfair, if you want to speak early and if you one of the people who make it under eighteen (18) minutes, but for people who come after eighteen (18) minutes, it can be looked at as unfair. Again, there are always two (2) ways of look at a problem sometimes and when we reorganized, we tried to be as fair as possible to all and we went in this direction. So it was not to cut off public testimony; it was to open it up in fairness to everyone. We have items like the “Imu” Bill and “Dog Barking” Bill where we have a lot of people in here that do not want to wait for the Council Meeting to hit their item. Again, a lot of times there are two (2) different ways to solve a problem. The Council went in this direction and it does not please everybody, but on the other hand on other issues, other people are not happy. Again, we tried our best. Thank you, Chair.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: Also for a point of clarification, I have attached the OIP opinion, which says that this proposed rule is legal and if we feel that eighteen (18) minutes is not sufficient, if we find in the process of implementing this rule that more people want to testify in the beginning, we can expand it to twenty-one (21) minutes or twenty-four (24) minutes. This was a rule that was in effect from 2011. When the Rules Sub-Committee, which I chaired, and whose members were then Councilmember Derek Kawakami and then Councilmember Nadine Nakamura, when we proposed the rules in 2011, we adopted it and they worked, as I recall, pretty well. We have since gotten confirmation from the Office of Information Practices, which rules on Sunshine Law issues that there is no real violation. I think we have clearance to go ahead and

restore this rule for the convenience of, especially working people, because those who are retired and those who are paid lobbyists can stay the whole meeting, but those who are working people cannot afford to take off a whole day, and this allows them to speak at the beginning of the meeting. When we implemented the rule, we did not have any real problems because with issues that had a lot of testifiers, the Chair could often, in his discretion, put that item first or there were other ways to handle it. This rule is meant for people who just on an issue that does not have a lot of testimony, but they want to say something, they can come and say it and leave. It makes it more convenient to the working person.

Council Chair Rapozo: Anyone else? I have a very short PowerPoint when we get to the Resolution, but I do not know what is wrong with the way we do it now. Mr. Mickens wanted to speak early, so we took it off the Consent Calendar. You actually would have had an opportunity to speak for six (6) minutes. If we had the eighteen (18) minutes, and you had to go and watch your baseball game or whatever this afternoon, you would have had three (3). This Chair, I, have always accommodated the public. Please point out a situation where that did not occur, anyone on this table. Point out a situation where someone said, "I have to go take my kid to school; I have to go back to work; I have to take my dog to the veterinarian." I have heard it all. Give me one (1) example of a time where I said, "No, wait until the item comes up." It has never happened. We have manipulated this agenda for the public time and time again. We have taken items out of order, as Councilmember Yukimura said the Chair has the prerogative to do. We have suspended the rules and people that had to come up early because they had to leave, whether they had to catch a flight. Mr. Mickens, you know this is the truth. It is a better system when you can come up on an item and speak twice at three (3) minutes than it is once and not be able to testify again. There is nothing wrong with the system we have today. The problem is the rule was not written for people like Glenn Mickens, Joe Rosa, and Ken Taylor, who is here every single week, and I do not mean that in a derogatory way, I appreciate you folks being here. This rule was made for the mom, the dad, and the student that had to leave because they had to go back to work or take care of a child or a pet. They come in, testify, and they leave; not come in, testify because they could, and then wait around for a second opportunity later to speak. That is why former Chair Furfaro wrote that rule or authored that rule to limit the testimony to just one shot because they did not want people abusing the rule. That is the reality of it. Point out a situation where this Council told someone, "No you cannot testify. Wait for the item show up." It never happened and it never will happen, as long as I am the Chair. We will have the discussion at the Resolution. I am not going to support it because there is nothing wrong with this current system. We will have further discussion at that time. Councilmember Yukimura, you spoke twice already, so you can reserve your comments when we reach the Resolution.

Councilmember Yukimura: This is not the final discussion.

Council Chair Rapozo: It is the final discussion.

Councilmember Yukimura: This is on the Communication and not the Resolution.

Council Chair Rapozo: It does not matter if it is the...

Councilmember Yukimura: Chair, you know...

Council Chair Rapozo: No, I know. Do not make me do this, Councilmember Yukimura. You always do this...

Councilmember Yukimura: I am not making you do anything. I am asking for a...

Council Chair Rapozo: Anyone else? You can bring it up at the Resolution.

Councilmember Yukimura: That is not according to the rules.

Council Chair Rapozo: I am sorry?

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Chair, we have one (1) more registered speaker.

Council Chair Rapozo: Okay. I will suspend the rules.

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: That person said she is waiving it. I will call the meeting back to order. Councilmember Hooser.

There being no further public testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Hooser: I will defer if she is going to speak.

Council Chair Rapozo: She is not going to speak already. She spoke twice. We are not going to go down that road again. Do you have any comments?

Councilmember Hooser: Yes. I understand...

Council Chair Rapozo: I am not sure what you are doing, Councilmember Yukimura. Let us take a five (5) minute recess.

There being no objections, the meeting recessed at 8:46 a.m.

The meeting reconvened at 8:51 a.m., and proceeded as follows:

Council Chair Rapozo: Any further discussion? Councilmember Hooser.

Councilmember Hooser: In speaking in support of this, just real briefly, Chair, and I wanted to point out that I agree that as far as I can remember, you are very generous and you are accommodating people when they ask to speak. But I believe there is an element of certainty that is missing from the rules as they are today. If someone asks me if there is something on the agenda and they want to show up and talk, what time it will be on the agenda, often times my answer is, "Well, I do not really know. We have an agenda and things move around. You have to come early and be prepared to stay all day. You can ask the Chair and if it is possible, they might amend the agenda." But there is no certainty. If this rule change passed, then people will know for certain that they can come in here at the start of the agenda, schedule their childcare, job, or whatever, and then they can speak and leave. I think that is the primary advantage to it, that it does allow a greater benefit, if you would, in my opinion, to the public, and I think that should be our number one concern—how do we serve the public as best we can? Again, how many meetings do we sit here and watch people in the audience, and I feel badly...I am sure all of us do...they are sitting there and sitting there all day long, and then finally they get to talk at the end. If they would have had a clear opportunity without having to ask permission, then they knew that they can come in at the start of the meeting and talk for three (3) minutes and go, we might have more participation. For that reason, I am inclined to support the rule change right now. Thank you.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Kualii'i.

Councilmember Kualii'i: Chair, I just want to say that I agree wholeheartedly with Vice Chair Kagawa's points. Let us remember that these rules were changed during reorganization when this Council first came into existence. This Council has two (2) months left. The timing of this is very odd. If a Councilmember had such grave concerns of this because they think they are hearing from constituents, I do not understand why we have not addressed this a long time ago. With two (2) months before the election, it is suspect to be grandstanding of

sorts. I think it is really a waste of our time right now and it is very troubling. We do not have any problems with the system as it currently exists. We have never had anyone come forward and tell us that they had a problem, whether they were able to come here in person or send something to us in writing. Often when there is a big issue and a lot of people are showing up for this issue and they cannot be here all day, we move that issue to the top of the agenda, and then twenty (20) people can testify and have their six (6) minutes: three (3) and then three (3) more. We are creating a problem out of something that just does not exist and I think we should move on.

Council Chair Rapozo:

Councilmember Kaneshiro.

Councilmember Kaneshiro: We went through this issue once before and we have talked about it a lot. I think there was fighting on the issue when we first started or at least when I first started on the Council as far as the rules go. As far as I have seen during the last two (2) years, it has worked smoothly and I really have not heard anybody from the public complain to me about not having the eighteen (18) minutes in the beginning. Again, you do see the unfairness. If you tell somebody, "Come early and you can have your eighteen (18) minutes," but if six (6) other people come before them then you tell them, "Well, I guess you just have to wait." Also, oral testimony is not the only testimony we receive. We also receive written testimony and phone calls, so there are opportunities for people that want to testify to provide their point. We are the decision-makers, so they E-mail us, we get it, and we take it into consideration. It does not necessarily need to be on television for us to get it. For most bills, you have at least three (3) opportunities to testify, where you have a first reading, public hearing, which sets the time, and then you have a committee meeting...actually, it is four (4)...you have a committee meeting, and then you have a full council meeting. So for most bills, you have four (4) opportunities to testify on one (1) item, orally if you want to. I think we have been able to accommodate everybody and I am okay with the rules as it stands.

Council Chair Rapozo:

Thank you. Councilmember Chock.

Councilmember Chock: Thank you, Chair. I have not had any real issues with this. Initially, I voted against the change for this and have been monitoring the situation. This, of all the rule changes to me, was the least drastic in my opinion. I certainly have some issues with asking questions and getting feedback because I think it does help for better dialogue. So the bottom line for me is when a person walks into a room and they have a limited amount of time and they want to and is requesting to speak, that they be offered that opportunity. I think that you for sure, Chair, have offered that. I think that it could probably be better articulated or communicated with the community. One of the things that I

thought about was if there was a sign when people walked in that said, "If you are here and have limited time to speak on something, please let us know so that we can try to accommodate you," then that way we could address it. I know that even on our committee days, I think there may be some inconsistencies amongst chairs, because someone might walk in after the beginning of the meeting, so we might make the request early, "Is anyone here to speak on something? Can we address it now?" Then it happens, but they might come in midmorning or something and they only have a limited time. If they know, walking into the room, that that option for them is there consistently, then perhaps that is something that we can approve upon. I would like to hear from the public because just like Councilmember Kaneshiro said, I have not heard any complaints on this. However, what I would think would be better is to hear if there is more from the community or if we need a public hearing to hear from others on it, then that is something I would support at this time. If I have to vote on it today, I do not know if I could support it. Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: If this was school, I would send Councilmember Yukimura to detention. I find it rude that she is standing while everybody else is talking for their first time.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Chair, I think it behooves us to remember that this Council still has the work to do for several more months and that it behooves us to treat each other with respect. The community is watching and the community expects us to treat each other with respect. To call out another Councilmember, questioning his or her motives, accusing her of "grandstanding," doing something before the election, or saying that they should leave and that kind of thing is inappropriate and immature, quite frankly. We should act like the Councilmembers that we are elected to be. We have two (2) more months to be a Council. We should not stop introducing legislation, rule changes, or bills between now and then, and we should not question everyone's motives between now and then. We have to get a grip on this. People are watching us and we should act accordingly. I think this is a reasonable and good request, and I believe our rules allow Councilmember Yukimura to speak for twenty (20) minutes as the introducer of the measure. If we would like a recess to consult the rules or otherwise, I can tell you that it is on page...Rule 13(f)...

Council Chair Rapozo: Councilmember Hooser, I know the rules. She will have twenty (20) minutes at the Resolution, not the Communication. She

will have twenty (20) minutes when the Resolution is introduced. That is what the rule says.

Councilmember Hooser: Do the rules call for only two (2) times to speak all the way through the entire meeting?

Council Chair Rapozo: On each item.

Councilmember Hooser: On each item?

Council Chair Rapozo: Correct.

Councilmember Hooser: So the twenty (20) minutes is not allowed on the Communication?

Council Chair Rapozo: On the Resolution, on the matter that is set for...

Councilmember Hooser: So she will be allowed twenty (20) minutes on the Resolution?

Council Chair Rapozo: Correct.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura, I am not going to recognize you. I have already said it. If you want to challenge that rule, you can. I would appreciate it if you would sit down because it is a distraction when you stand like that, but that is your call. I am going to move on with the meeting. The motion is to receive. Is there any further discussion for someone that has not spoken twice?

The motion to receive C 2016-188 for the record was then put, and unanimously carried.

COMMUNICATIONS:

C 2016-189 Communication (08/04/2016) from the Director of Finance, requesting Council approval to accept and expend the appropriations in the total amount of \$5,700,000.00 provided to the County of Kaua'i in the Supplemental Appropriations Act of 2016 – Act 124, Session Laws of Hawai'i 2016 from the State of Hawai'i, for Appropriation Warrant No. 222 for the following projects:

- Adolescent Treatment & Healing Center - \$5,000,000.00; and

- Kaua'i Veteran's Cemetery Renovation - \$700,000.00.

Councilmember Kualii moved to approve C 2016-189, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion?

Councilmember Yukimura moved to take C 2016-189 in seriatim, seconded by Councilmember Hooser.

Council Chair Rapozo: Councilmember Yukimura, do you want to explain your motion?

Councilmember Yukimura: Yes. Rather than vote both on the Adolescent Treatment & Healing Center and the Kaua'i Veteran's Cemetery in one vote, I would like to ask that we vote on them separately.

Council Chair Rapozo: Thank you. Let us act on that motion first before we take public testimony. Is there any further discussion on the items being taken separately? Can I ask for a roll call on the motion to take C 2016-189 in seriatim?

The motion to take C 2016-189 in seriatim was then put, and carried by the following vote:

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|-----------------------|--|------------|
| FOR MOTION: | Chock, Hooser, Kaneshiro, Kualii, Yukimura, Rapozo | TOTAL – 6, |
| AGAINST MOTION: | Kagawa | TOTAL – 1, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Ms. Fountain-Tanigawa: The motion passes.

Council Chair Rapozo: With that, we will take the item separately on the vote. Is there anybody in the audience wishing to testify? Further discussion? Councilmember Yukimura.

Councilmember Yukimura: I have some questions.

Council Chair Rapozo: Sure. Who did you need?

Councilmember Yukimura: Our Life's Choices Kaua'i Coordinator.

Council Chair Rapozo: Okay. With that, I will suspend the rules. Anyone else? The Managing Director might as well come up also so if there are any questions on the Administration's direction, then everybody will be here to answer questions. Go ahead, Councilmember Yukimura.

There being no objections, the rules were suspended.

Councilmember Yukimura: Good morning. Theresa, has the County procured expert services to design the center?

THERESA KOKI, Life's Choices Kaua'i Coordinator: Good morning, Theresa Koki, for the record. We do have, and have had for the past three (3) years, Marc Ventura, the Architect, to design the Adolescent Treatment & Healing Center with off-site and on-site infrastructure.

Councilmember Hooser: I have a hard time hearing you, so I would just ask if you could speak up a little bit.

Ms. Koki: We do have, and have had for the past three (3) years, Marc Ventura, our Architect, who is responsible for the design of off-site and on-site infrastructure planning and design.

Councilmember Yukimura: What is his expertise in designing an adolescent drug treatment center?

Ms. Koki: I believe we have had several discussions on the Council before, and I am not sure if this pertaining to the agenda item today, but we have mentioned it in correspondence and council meetings that he is an award-winning architect that has designed a lot of medical offices here on Kaua'i like the Urgent Care Clinic, Wilcox Memorial Hospital, the expansion of the Surgery Unit, and others that has experience in. We also did mention that Marc has been doing various site inspections at other adolescent treatment centers in the State of Hawai'i to gather information.

Councilmember Yukimura: So the E-mail that I sent you from Dr. Zuniga explaining the way that this building requires specialized knowledge about adolescent drug treatment, do you feel that Marc Ventura is satisfying that background of what is required?

Ms. Koki: Yes. Like I said, he has been meeting with other adolescent treatment centers and looking at their plans and facilities. He also frequently meets with our Blue Ribbon Panel, who is experts in the drug treatment field. Like I said, he has done a lot of other medical office buildings.

Councilmember Yukimura: So you mean that he has been discussing the details of the design with your Blue Ribbon Panel?

Ms. Koki: Yes.

Councilmember Yukimura: Okay. I would like to get the minutes of those meetings, please.

Ms. Koki: I believe we already sent that to you earlier, but I will send it to you again.

Councilmember Yukimura: No, I do not want meetings that were done prior to the starting of the actual design process. So anything that actually deals with the design of the building, if you could send that, which you have not yet sent.

Ms. Koki: I will check if there are other discussions after we sent the minutes to you.

Council Chair Rapozo: We will send that in writing for that specific request.

Ms. Koki: Thank you.

Councilmember Yukimura: What is your timetable now?

Ms. Koki: Right now, we are publishing the Environmental Assessment (EA). I do believe that you all got copies from our Consultant. It was a thirty-day comment period and we had a draft EA that had a Findings of No Significant Impact (FONSI) on the property, so we are moving ahead and Marc Ventura is doing his preliminary drawings right now.

Councilmember Yukimura: So the thirty-day comment is over and you folks have a finished, accepted EA?

Ms. Koki: Yes, it is being published and it is another thirty-day review that was required by the Planning Department.

Councilmember Yukimura: A thirty-day review for public comment?

Ms. Koki: Now that they have had the Findings of No Significant Impact, yes. It is published and it is open for a thirty-day review and comment.

Councilmember Yukimura: So the public is being asked to comment for a thirty-day period?

Ms. Koki: They were asked to comment and now it is available for everybody else to look at and send any more comments in the next thirty (30) days.

Councilmember Yukimura: When is the deadline?

Ms. Koki: I believe the first week in October.

Councilmember Yukimura: What is the schedule for design, going out to bid, and completion? Do you have a schedule for that?

Ms. Koki: I do have a timetable and I apologize for not bringing it, because I did not realize it was pertaining to the agenda item. We can also forward that to you.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Any other questions? I have a question on the cemetery renovation. This request is basically for us to get the money from the State. The State allocated four hundred thousand dollars (\$400,000) in the prior budget, correct? Maybe you do not know, Wally. I am sorry.

WALLACE G. REZENTES, JR., Managing Director: Wally Rezentes, Jr., Managing Director. I am sorry. I am not sure.

Council Chair Rapozo: No, I saw Lenny. I should have asked Lenny to come up.

Councilmember Yukimura: I thought we were taking this is seriatim.

Council Chair Rapozo: Yes, for the vote.

LEONARD A. RAPOZO, JR., Director of Parks & Recreation: Lenny Rapozo, Director of Parks & Recreation.

Council Chair Rapozo: Thanks, Lenny. I apologize for the spur of the moment question, but I remember that the State allocated four hundred thousand dollars (\$400,000) in a prior budget. Did we ever receive those funds?

Mr. Rapozo: They were holding it back because we were short-funding to complete the whole construction project. So now that we have this additional funding, this request will supplement the previous one that we had.

Council Chair Rapozo: So it is seven hundred thousand dollars (\$700,000), in addition to the four hundred thousand dollars (\$400,000)?

Mr. Rapozo: Correct.

Council Chair Rapozo: Okay. Thank you.

Mr. Rapozo: Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Lenny, could you review for us what these moneys will be used for?

Mr. Rapozo: This would be for the renovation and upgrades to the communal hall at the Kaua'i Veteran's Cemetery. We procured a consultant to do a review to upgrade the maintenance, renovate the halls, and to bring it up to code. With this, we can move forward with the construction to bring it up to code and to...

Councilmember Yukimura: The communal hall is the place where we all gather on Veteran's Day, Memorial Day, and so forth, right?

Mr. Rapozo: Yes.

Councilmember Yukimura: Where there is that beautiful mosaic, right?

Mr. Rapozo: Yes.

Councilmember Yukimura: It is very, very old, so there is some rot and stuff.

Mr. Rapozo: There is some rot. Like I said, the electrical is not up to code. We found that not all of the concrete masonry unit (CMU) cells were filled with concrete like they should have been, so all of these would be addressed.

Councilmember Yukimura: That sounds good. Do you have a timetable for that?

Mr. Rapozo: As soon as we have the money, we can move forward with the procurement.

Councilmember Yukimura: It does not have anything to do with creating additional burial plots, right?

Mr. Rapozo: That is a separate project that we are currently working on with the Department of Defense.

Councilmember Yukimura: Right. I am glad you are working on that because we would not want to be without plots when our veterans or their families need them.

Mr. Rapozo: Yes.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Any other questions for the Administration? If not, thank you very much. I will call the meeting back to order. Further discussion? Councilmember Kuali'i.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kuali'i: I just wanted to say that this is a communication, and by our support, we are approving the acceptance and the expenditure. This is a cause for recognition and *mahalo* to Theresa, the Administration, the Mayor—a big *mahalo*. This is a good success on our way to doing what we have been trying to do for years, before a lot of us were sitting on this Council, to finally get an Adolescent Treatment & Healing Center, five million dollars (\$5,000,000). That is rare and hard to come by. Thank you to the Administration. Let us keep moving and get this done for our people, especially our young people. Thank you.

Council Chair Rapozo: Before we go on, Councilmember Chock has asked for one more question of Theresa. If there are no objections, I will suspend the rules.

There being no objections, the rules were suspended.

Councilmember Chock: Sorry, Theresa. This just kind of came to my mind. Congratulations, because it is a big amount of money that has come from the

State for you on this. I wanted to ask more about the operations. I know that a big part of our success with the future of the center will be how the State jumps on-board and helps us to sustain it. I was just wondering if there has been any latest update or response from the Department of Health on how it is that they intend to support what this island, this County, is moving towards.

Ms. Koki: Well, all of the current contracts that they have right now are expiring in 2018. Other than that, we cannot discuss procurement issues prior to, but we have been getting support from the Department of Health and the Alcohol and Drug Abuse Division as well. They do have our preliminary sketches and made some comments, so we are going back and forth. We really have started the trend of having a state-of-the-art facility in the State of Hawai'i and working with our partners, not in competition with the existing treatment facilities. I also believe that with this project, the Mayor is one step ahead of the Juvenile Justice Reform where there will be places for kids. I am really excited about that because this is going to be like a youth center where there would be the assessment center and outpatient services, which could generate money as well, and then the residential treatment, which is a gap in service here on Kaua'i.

Councilmember Chock: Thank you.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: I have a question and it may be for the Director of Finance, but I will ask you. If he needs to come up, he may. Have these funds already been released by the Governor or the Budget Finance Department and this is the last step or do we still have to get the Governor, the Budget Finance Department, and other offices to actually release the funds?

Ms. Koki: This is the step to release the funds. We have to come before you to have your blessing to release the funds that were already appropriated and we will write a letter after you release, if you release it. Then it will go to Budget Finance.

Councilmember Hooser: So the Budget Finance Department is the entity that releases the funds, not us?

Ms. Koki: Correct.

Councilmember Hooser: Have they already agreed to release the funds?

Ms. Koki: Not until we send the correspondence.

Councilmember Hooser: Okay, so this is part of the process for asking them to release the funds?

Ms. Koki: Correct.

Councilmember Hooser: And we are not one hundred percent (100%) sure...normally, the way the process works, you do not really know until they release them, and this is the next step. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: In the timetable, when do you plan to open this facility?

Ms. Koki: I believe with all of the legalities and all of the steps that we have to take, it will be a couple of years.

Councilmember Yukimura: So that would make it 2018?

Ms. Koki: Correct.

Councilmember Yukimura: How do you plan to get the operating moneys?

Ms. Koki: We are going to have people that are interested actually bid on the facility and submit a business plan of how they are going to run it. Other than that, there are operating funds that would be available through various sources from the State Department of Health and there are other ways that we are looking into right now with our federal agents and our lobbyists in Washington, D.C.

Councilmember Yukimura: As far as other sources from the Department of Health, what other sources is there that do not compete with existing centers?

Ms. Koki: I do not think I can answer that question due to the procurement because if there are centers that have different services, then it is a different pot of money, and that is all I can say right now because it is all contractual and we would have to respond to the Request for Proposal (RFP) when it is open.

Councilmember Yukimura: Do you have an RFP that is out right now?

Ms. Koki: No. During the budget process, the Director of Finance and our Procurement Officer said that we cannot procure something that is not there.

Councilmember Yukimura: Right.

Ms. Koki: So we do not have an RFP out right now.

Councilmember Yukimura: Okay. I thought you were saying for procurement reasons you cannot talk about certain things, but in fact, there is no procurement in place at this time.

Ms. Koki: That is you asking me about the State giving us money. It is all a procurement process.

Councilmember Yukimura: Yes, but when we commit to five million dollars (\$5,000,000) in building a building, you usually want to have an operating plan that shows you where you are getting your operating moneys from and how that is going to be operated. You do not proceed to build a building until you have a really good business plan or a working plan. That is why I am asking, because it is a great concern.

Ms. Koki: I believe that is why the Council issued a resolution in support.

Council Chair Rapozo: Hang on. This seems like déjà vu. We have been down this road. We have had the discussion. This Council supported the request for the five million dollars (\$5,000,000). This Council also supported or passed a resolution that basically said that one million two hundred thousand dollars (\$1,200,000) of operating money would be...the Council had basically said that we would participate in that and work with that. I do not want to get into the details of whether or not the model is right or wrong. This is for five million dollars (\$5,000,000) to build the building. Is that correct?

Ms. Koki: Correct.

Council Chair Rapozo: Then once we build the building, then the RFP and all of the different parts of the process will move forward.

Councilmember Yukimura: The thing is that you build a building based on model, and if you do not know what the model is, you are spending five million dollars (\$5,000,000). It is like doing a house without a house plan and knowing how

people are going to function within it. That is the concern. You have to know what you are building for. If you do not have a model and know what you are building for, you could end up wasting a lot of money.

Council Chair Rapozo: Again, let me remind the Councilmembers that the Council already approved this. Maybe not everybody agreed with it, but this is what we approved. We went through the discussions. Today it is a matter of, do we want the Governor to release the funds? If not, we can say, “No, Governor, keep your five million dollars (\$5,000,000).” That is what is on the agenda today. If you want a separate update on the project, then we can agenda that in a committee. But today is really, do we or are we supporting the release of the money from the State to the County?

Councilmember Yukimura: This may appear to be déjà vu, but that is because there have not been any reliable answers. So you are saying basically that you expect the Council to pay for the operation of this facility at the tune of one million two hundred thousand dollars (\$1,200,000) basically, right? If all else fails and there is nothing, then we are committing to one million two hundred thousand dollars (\$1,200,000) a year in operating moneys for this facility, even though we might be building it without knowing what model we are going to use; therefore, our building might not be suitable to the model that we are going to eventually figure out.

Mr. Rezentes: If I can speak to that a little bit—I have been back a few months and I have attended a few meetings with the partners that have been involved in the process of developing or working with Theresa, our Consultant, Mr. Ventura, and others. My takeaway was that I guess, for lack of a better word, the plans will be detailed enough, yet generic enough to stand up a facility that could work. We had players in the room that are professionals in the field that are working at and operating these facilities elsewhere in the State. They are also confident that what we are conceptually designing would work for the type of facility that we are looking to stand up. To your point about “is the County committing one million two hundred thousand dollars (\$1,200,000)” —we cannot say for a fact obviously today. We hope to entertain a number of viable proposals, and hopefully at the end of the day, we would engage in a company or have a contract with an entity that will run it as efficiently as possible. But it is too early to ultimately make that call if we are committing one million two hundred thousand dollars (\$1,200,000). We are hoping it is a lot less than that. We are working with Alcohol and Drug Abuse Division (ADAD) and other partners in the State on finding the right pathways of securing other sources of funds outside of the County.

Councilmember Yukimura: So you are saying that we hope we will have a viable proposal. So you are going to build the building and go out for a proposal for an operator, but what if you do not have a viable operator or viable proposal?

Mr. Rezentes: What alternatives do we have? Do we get a viable proposal before we do the building? Can someone commit that today? I do not think so.

Councilmember Yukimura: Yes. The feasibility study recommended using an existing building...

Council Chair Rapozo: Hang on...

Councilmember Yukimura: No, I am sorry. I am asking the question.

Council Chair Rapozo: You are not asking. You are telling him about a feasible...we are not going to get into that debate of the process. Today's discussion is whether or not we want the State to release the funds. If you want to have an update, Councilmember Yukimura, I say we can put that in a committee and have the update. We are not going to go down that road again and listen to...

Councilmember Yukimura: Chair, I am just asking a question that is related to the question of whether we want to release the money.

Council Chair Rapozo: Then ask your question.

Councilmember Yukimura: I have been asking the questions, except that I have been interrupted continuously.

Council Chair Rapozo: Ask your question.

Councilmember Yukimura: What will happen if we do not have a viable proposal?

Ms. Koki: Actually, and you got copies as well, earlier on, we did go out for a Request for Information (RFI) to see what is out there and we have been talking to all four (4) vendors who responded to the request for information or Request for Qualifications (RFQ). One of them has money and wanted to move here tomorrow, but we have to speak to all of them on an even level-playing field, because it is a procurement process. We were in the process of writing a business plan as well, and then we were advised that we should have whoever the operator is show us their business plan and model and go with them from there.

Councilmember Yukimura: That is correct. Usually, when you build a building, you work with the people who are going to be in the building. When you do an RFI, at the end of an RFI, you usually know what kind of proposal you want.

Councilmember Kagawa: Call for the question, Mr. Chair.

Council Chair Rapozo: Hang on.

Councilmember Yukimura: I am sorry. This is part of the dialogue in understanding what is being done.

Councilmember Kagawa: Can we take a vote? I call for the question.

Council Chair Rapozo: We need to be back in order before we do that. Again, you are trying to convince them that they are doing it wrong, Councilmember Yukimura.

Councilmember Yukimura: No, I am asking questions and seeking...

Council Chair Rapozo: Ask the question. I am going to go on to the next person.

Councilmember Yukimura: Okay. What happens if we do not have a viable proposal?

Council Chair Rapozo: She just answered that.

Councilmember Yukimura: But we have a five million dollar (\$5,000,000) building?

Council Chair Rapozo: I am having a difficult time here, but...

Ms. Koki: I truly believe that we are not going to not have a proposal. That is why we went out for the RFI. I want to move forward on this because this is the most work that anyone has ever done in the last ten (10) years. We are almost there. I am a fiscally responsible person. I would never let a building sit empty after we have spent five million dollars (\$5,000,000) on. There are various ways that we can do things.

Council Chair Rapozo: Again, we hear you...well, I think six (6) of us hear you. I want to move on. I am not going to get into the debate of what model will work versus the other. I think I heard Wally say very clearly that the design is

going to be flexible enough where it could accommodate different models. I do not know how else more you can put that. You said you have four (4) vendors who responded to the RFI, and one was ready to move here tomorrow. How do you answer her question? I do not know. We need to move on. Are there any other questions as far as the release of the five million dollars (\$5,000,000)? If not, thank you. I will call the meeting back to order. Further discussion? Since we are going to take it in seriatim, let us start with the Adolescent Treatment & Healing Center. Can I have a motion on that item first?

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa moved to approve the Adolescent Treatment & Healing Center - \$5,000,000, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. Ironically, at the fair I just bumped into a grandfather that raised this boy, who is a junior now, and he had to send him away to Hilo to the Youth Challenge, where he is at and he showed me a picture, and the grandfather mentioned that he is doing great. I guess the biggest problem is that the grandfather has raised his grandson all of these years and he is allowed one (1) call, ten (10) minutes a week. If the child was here, obviously grandpa would be able to see him more often and be a part of his life growing up. So there is this worry that the grandfather is suffering and it is because we do not have a facility. We worked through the State or what have you, and have our problem youth that are going through problems in their lives, and have to send them away to Hilo to take care of our problems. I do not think that is *pono*. I think we need to try our best to take care of our children and make sure that our families are there to support them, and that is why I am totally supporting this project. I believe that the questions asked of Theresa are unanswerable. You cannot get a RFP when you do not have the facility and you do not have the State funds to even start building. It is ridiculous. It is not saying that it is an easy road. The healthcare industry is a tough road. Mahelona Medical Center had problems. Kaua'i Veterans Memorial Hospital (KVMH) went through problems. One of Maui's hospitals thought about closing. The healthcare industry is not an easy nut to crack. Dr. Norma here knows that it is not easy. It is very competitive and very expensive, but I am telling you that it is something that we need to do for our children, for our families. There are significant problems with the youth in our communities and we constantly send them away to Maui and O'ahu, and now we are sending them away to Hawai'i Island, because we do not want to address our island's problems? I think that is wrong. It is an easy vote for me. I am supporting you, Theresa.

Council Chair Rapozo: Any other discussion on the Adolescent Treatment & Healing Center? Councilmember Yukimura.

Councilmember Yukimura: I support effective adolescent drug treatment that is based on best practices, is financially sustainable, is effective, and is cost-effective. So far, based on what I have heard, the proposed Adolescent Treatment & Healing Center is none of the above. It is not based on best practices if you ask the experts on this island, like LaVerne Bishop, Wayne Law, and Madeleine Hiraga-Nuccio, among them. The real practice is to have it family-based and work with the family, and it also needs the continuum of care so that when they come out of this most intensive treatment that they have adequate support. The County's feasibility study shows that there is not this continuum care so the relapse rate will be great. It is not financially sustainable, the County's own feasibility study, which was done by someone with impeccable credentials and expertise in the area of children and youth said that unless the Department of Health commits funding, the project is not sustainable. Some Councilmembers say, "Oh, we will pay it. Well, we will see." But paying one million two hundred thousand dollars (\$1,200,000) a year when we were able to shake lose in the last budget only three hundred forty-four thousand dollars (\$344,000) to put towards ten million dollars (\$10,000,000) needed to repair our roads per year; it does not give one assurance that there will be that money. There have been two (2) other adolescent drug treatment centers on neighbor islands that have closed, that were not able to sustain themselves. So we are going to pay five million dollars (\$5,000,000) to build a building, and then we do not have a clear plan on how we are going to sustain it. Cost-effective—this will be for eight (8) to ten (10) beds, which are actually available on O'ahu, and there are support for families to go and visit their children there, so it is not like there are no other options. But using one million two hundred thousand dollars (\$1,200,000)—how many young people could we help to prevent them from even needing to go to an adolescent drug treatment center? Are we being strategic in how we use our money? Are we using it to help the most kids on this island? That is the question. Councilmember Kagawa talks about Youth Challenge—well, there is a lack of understanding about what kind of services our kids need. They need Youth Challenge, some of them, but that kind of programming is not going to be given by an adolescent drug treatment center. Some kinds do not have a diagnosis of drug use. They need other kinds of programming like Youth Challenge. They are not substitutable and we need to know how we meet these very needs of our children, which takes some really good strategic planning about how we do that. We have not done that on this island because we have just been looking at this one facility. I do not believe we are ready to move forward and there are questions that have not been sufficiently answered that need to be answered if we were to be fiscally responsible, but most of all, responsible to the needs of our kids.

Council Chair Rapozo: Anyone else? Councilmember Kualifi.

Councilmember Kualifi: I just wanted to say that the way I view this is that we, as a Council, is a policy-making body. The Administration is the body that handles the day-to-day operations. We set the budget, but the Administration is the one that incurs the day-to-day expenditures to make operations work to best serve our community. This body wholeheartedly agrees, as a policy, that we need to do something for our youth, that we need these adolescent drug treatment and healing centers. We all have neighbors and family members that are impacted by this, and yet, none of us, except maybe Councilmember Yukimura, are so engaged in the minutia of what management practices have to happen that we can play that role. That is not our role. Let the Administration do their role and have a little bit of trust in them. If it is a policy and a priority then provide the funding if we must. If we do not know where the money is coming from, then that is our job to find it. We can set priorities. The bottom line is that we have to work with the Administration. We cannot micromanage how they make things happen. We are the Council; we are not the Administration. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: It is agreed that we need to do something for our youth; the question is, what is the best way to serve the needs of our youth? The Administration does have a role and their role is to do the operations. Our role is oversight, to give money when we have been shown that the programs have been well thought out and that there is a good plan to follow. That has not been provided in this instance. Yes, we have neighbors and family members who have been affected by drugs, tremendously so, but most of them will not need the most intense need for adolescent drug treatment. They need all other kinds like counseling, in-family therapy, and all kinds of things. Those are the continuum of care that the feasibility study for the center says is needed.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I just have to say that after teaching for fifteen (15) years at Kapa'a High School I think I know that there are youth that have substance abuse problems that have gone to Youth Challenge and Acadia for help. Councilmember Yukimura acts like she knows, but I do not think she knows...she can know any other area that she may think, but she does not know more about youth and the challenges that they go through and programs that are out there that have helped our youth. I am just saying that having this substance abuse center can at least help some of our youth on Kaua'i that are struggling to get

the help here on this island that they live on. That is all I am saying. Thank you, Chair.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: I will be supporting this proposal, if you would. I share some of the concerns that Councilmember Yukimura raises and I appreciate her willingness to ask the questions and to dig down deep, because they are valid questions. How are we going to pay for this in the end; whether it will be a cash drain on the County; how many people will it serve; and whether it works or not are huge questions and deserve close scrutiny and I think it deserves scrutiny by this Council, as well as scrutiny by the Administration. I appreciate those questions being asked. However, the reason I am willing to support this right now is having the ability to utilize the structure for other purposes that might be related to youth support, whether it is drug rehabilitation or treatment, or whether it is for other purposes. The moneys are coming from the State. The land is coming from the landowner. There will be costs to the County to construct it; there is no question about that. But given the totality of the situation, I believe that this is a project worthy of support, and there is no question that drug use and abuse is a huge issue for our entire community and that we need to take some steps to deal with this. I am glad where we are taking some steps, but I think there is much more that we can do, besides build a building and we should explore that as we move forward as well. Thank you.

Council Chair Rapozo: Anyone else? If not, I will just say that this goes back fourteen (14) years to former Mayor Bryan Baptiste when he put together the drug team and had our first drug plan. I was fortunate enough to sit on that and I remember that this was one of the key components. There are many people between then and now that had a part in this and much *mahalo* to all of them and Theresa Koki, who has been persistent—pushy at times—but this is something that I believe is long overdue. The reality is when we...I was there and I met with the State Representatives and the Senate, begging for the five million dollars (\$5,000,000). In fact, I was there with Theresa and Nadine and met with Sylvia Luke. They wanted the County to put some commitment; that is where the one million two hundred thousand dollars (\$1,200,000) came from. They needed something from the County saying, “Hey, if you folks want five million dollars (\$5,000,000) from us, show us that you are going to have a dog in this fight,” and we did. This Council approved that Resolution. Yes, it is a resolution and it does not commit the County to any future funding, but it does make that strong policy statement saying that this Council, this sitting Council, whether or not we all agree or disagree, are basically saying that we are committed to making sure that the operating funds will be available. If we have to raise taxes, we have to raise taxes. I guess the point is that the Council made a policy statement saying that we

will do what it takes to get this facility built. As Councilmember Kualifi said, the model is...you folks have the experts. Yesterday, I had a meeting with Brian Kohatsu, who is a recovering addict, and is now a drug abuse counselor. He turned his life around and he is part of the Treatment and Intervention Committee. There was a lot I learned yesterday about what is lacking here in services. This is one part. There are many other parts that we have to look at, but this is one part that is critical. Rather than sit here and say that there are all of these other ones that failed, let us talk about the successes and opportunities. Councilmember Hooser brought up the additional uses. I heard loud and clear that Theresa said that there will be outpatient services. There will be other services, not just acute care and residential treatment. Our kids that are in Councilmember Kagawa's classes that he talks about, that he knows from the schools that are being shipped off to Youth Challenge and this facility may be a benefit to them. Parents today cannot afford to visit their kids that are in Honolulu, Hawai'i Island, Arizona, or Utah. We talk about one million two hundred thousand dollars (\$1,200,000)...to help our kids...why should Kaua'i not have a treatment center to help our kids? Maybe some people believe that we do not have a problem. Really? They better wake up, because we have a problem. That one million two hundred thousand dollars (\$1,200,000)—if that is going to help one (1) kid, two (2) kids, or three (3), or four (4)—eight (8) beds may seem little, and it is, but when you talk about the turnaround...these kids come in, get the treatment program, they go out, and then somebody else comes in. You can help quite a few kids can come through the program and hopefully benefit from this. Again, this was all approved in the past; we are just asking for the State to release the funds and that is what today's action does. I am hoping that we can get unanimous support to show the State that we are serious and that we mean it and that we do want to get this facility built. With that, roll call. The motion is to approve the release of the five million dollars (\$5,000,000) for the Adolescent Treatment & Healing Center.

The motion to approve the Adolescent Treatment & Healing Center - \$5,000,000 was then put, and carried by the following vote:

| | | |
|-----------------------|-----------------------------------|------------|
| FOR MOTION: | Chock, Hooser, Kagawa, Kaneshiro, | |
| | Kualifi, Rapozo | TOTAL – 6, |
| AGAINST MOTION: | Yukimura | TOTAL – 1, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Council Chair Rapozo: With that, can I get a motion for the Kaua'i Veteran's Cemetery Renovation?

Councilmember Chock moved to approve the Kaua'i Veteran's Cemetery Renovation - \$700,000, seconded by Councilmember Kualifi.

Council Chair Rapozo: Any discussion on that? Councilmember Yukimura.

Councilmember Yukimura: I believe these funds are much needed and there is a plan for the renovations. We owe it to our veterans to support them and to keep the Veteran's Cemetery and the facilities there in good condition. These are only preliminary moneys, so I look forward to the next phase where we are also then ensuring that we have enough plots for our veterans. I appreciate the work that the Department of Parks & Recreation has done on this.

Council Chair Rapozo: Anyone else? I want to thank the Department of Parks & Recreation and the Department of Public Works for staying on this. That building should be the best looking building for our veterans. I also want to thank Lyle and Lenny and also the Department of Finance in working with Tulsi Gabbard. We have been in active discussions with her to try and get the feds to release those funds for the expansion, as Councilmember Yukimura has talked about, because we are running out of space and that is in motion as we speak. Hopefully they will release those funds soon. I can honestly say that the County has done their job; the Department of Parks & Recreation and the Department of Public Works have done their job as far as the planning and design of that. We are just waiting for the funds. Councilmember Kagawa.

Councilmember Kagawa: As we approve this, I want to thank Lenny and the Department of Public Works as well. As we move forward and do the repairs that are needed, I am going to ask to not skimp when it comes to putting the reinforcements needed. I know that the Kaiākea Fire Station, because it is close to the ocean, has been substantive damage done from the salt breeze to all of the metal components, and from what I have heard, we have been replacing it yearly; things that should last twenty (20) years, we are doing repairs on it yearly because I guess we are using substandard type of metals that are not salt water resistant. So I think the Veteran's Cemetery is going to be same thing. That is not an area to use substandard materials that are not resistant to the salt breeze. I do not want to see Kaiākea Fire Station recurring. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, roll call.

The motion to approve the Kaua'i Veteran's Cemetery Renovation - \$700,000 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR MOTION: | Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo | TOTAL – 7, |
| AGAINST MOTION: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Council Chair Rapozo: Next item, please.

C 2016-190 Communication (08/08/2016) from the Planning Director, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, to allow multiple family dwelling units in all residential zoning districts: Councilmember Kuali'i moved to receive C 2016-190 for the record, seconded by Councilmember Chock.

Council Chair Rapozo: Any discussion or public testimony? The rules are suspended.

There being no objections, the rules were suspended to take public testimony.

ANNE PUNOHU: *Aloha.* My name is Anne Punohu. To make sure that I am up here testifying for the right thing, this is on the housing issue, correct? Although I am not a paid lobbyist and although I am just a private citizen, I am going continue to come up at this desk every time I see an agenda item putting affordable rental or helping renters out and housing on the agenda, and I will continue to say the same things every time. So I know you will get really sick of me, but I am hoping that if I say it enough that somebody will listen. I want the median income to be charged for any of these units under any ordinance or law or anything that you folks propose to be less...far less than eighty percent (80%). I want it to be lower and I want any of these items to be piggybacked on another item, which will call for rent control or some sort of rental suppression, or some sort of rental limit. I feel that as much as you folks propose these things, without that piggyback on it to be an entire package, it will not work for the people or help the people that you want to help. I pretty much do not have anything else to say, but just expect this testimony every single time the item is on the agenda. *Mahalo.*

Council Chair Rapozo: Thank you very much. Is anyone else wishing to testify? Ms. Parker.

ALICE PARKER: Alice Parker, for the record. This is a courtesy of the Kaua'i County Farm Bureau Fair—I tripped. I think this is terrific. This is what the public wanted, all County-wide residential units to be able to build affordable multiple family units, because we need housing desperately. The

infrastructure is already there and could be easily structured to expand for more people. Thank you.

Council Chair Rapozo: Thank you. Anyone else? Ms. Sparks.

NORMA DOCTOR SPARKS: Good morning. Norma Doctor Sparks. I support this as well. As I have said before, under my father's trust, we have six (6) rental units, and every time one becomes vacant and we advertise it, we have over thirty (30) people coming to see a unit. We have really worked on trying to keep our rents affordable and we understand all of the possible County benefits that we would receive in terms of taxation if we were to keep it affordable. So I think the idea of allowing multiple family dwellings in all residential zoning districts is a good idea, especially when the first communication actually talked about being only in Līhu'e. I think that this is very responsive to the needs of Kaua'i's citizens. I just want to also really focus on keeping those multiple family dwellings to be affordable as much as possible and that they not become very expensive rentals as well. So I do support this and I appreciate the movement to all residential zoning districts as well. Thank you.

Council Chair Rapozo: Thank you. With that, I will call the meeting back to order. Further discussion? The motion is to receive. Councilmember Kagawa.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I know a lot of the problems that occur. I appreciate what Anne has spoken about, but the housing market and the high rents that are on Kaua'i are not only on Kaua'i; it is a statewide problem; it is a nationwide problem. How to fix that, I do not think that the Council alone can fix what has happened. I think it is going to take coordination with the state and federal government to figure out if we are going to try and really address this problem to help out everyone, because renting is a free enterprise. If you buy a place for five hundred thousand dollars (\$500,000), it is very difficult for you to rent it under one thousand dollars (\$1,000). It is plain math. You are not going to buy a place and take a loss. The question is why is it five hundred thousand dollars (\$500,000) and what can we do to bring it down? We have to somehow bring our market values down, if that makes sense. Again, this is a global and nationwide issue that we have to tackle. It is very difficult to incentivize. We had Kako folks talk about it, like they jumped out of the affordable rental program because the tax benefit of getting the Homestead rate versus the Residential rate was not worth it anymore. Again, you can use all of the tax credits and all of the different methods that you can here at the Council body, but unless we control the

market values of our land prices, it is going to be very difficult to get a handle on how we provide affordable rents all over the island. This is an issue that needs significant coordination with state and federal agencies and legislators. We need to really work together and try to find a better long-term solution, rather than small tax credits here and there. As we saw with previous testifiers and previous bills, it is very, very difficult. If the market values keep going up and we cannot control it, then we will not really be solving the problem. Thank you, Chair.

Council Chair Rapozo: Thank you. Councilmember Chock.

Councilmember Chock: I think this is one of the many considerations that we need to be looking at in addressing the need for housing on our island. I know that we will be taking up more discussion, but I just wanted to voice that I do have some questions, mostly regarding how we intend to mitigate any effects of sprawl as well in the future if we move in this direction if it is a concern and some of the Planning Commission process that we had before us. I will be posing those questions later, if we can just let the Planning Department know.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: I support the intention of this Bill and appreciate the fact that Councilmember Kaneshiro has introduced it. I think we need to look at increased densities within our town cores, and hopefully this will be a way to make more housing available. I also hope that the Planning Department will have a variety of ways, whether it is form-based codes or otherwise, to help mitigate the impacts of the mix in multi-family housing and single-family housing. I am thinking of a specific example, where the County is the developer of Rice Camp and there are single-family homes immediately adjacent to Rice Camp that have been there for years. They were given no notice that three (3) stories of building are coming up just a few feet away from their single-family home, and they found that lack of notice and lack of consideration is quite distressing. As we approve bills like this, there will be situations that I think we have to anticipate. Whether it is setbacks, or building envelopes, or things like that, there are ways to mitigate the impact and make this a win-win for everyone, so I hope that the Planning Department will be sensitive to those issues. There will be some questions that I will also be asking during the period that we have to vet this Bill.

Council Chair Rapozo: Thank you. Councilmember Hooser.

Councilmember Hooser: I am also supporting this going forward, but I do have lots of questions. Will we have the Planning Department here later to do that?

Council Chair Rapozo: Yes.

Councilmember Hooser: Okay. I will hold my questions.

Council Chair Rapozo: Today is first reading, but as I have stated in the past, I think it is important that we get our questions answered before the public hearing. As far as the details, we could probably wait for that when it goes to the committee meeting. If there are some significant questions, especially intent, I think, is important; what is the Administration's intent moving forward? I think it is important to ask that today before we get to the public hearing.

Councilmember Hooser: Thank you. I agree. For any major issues, we should get it on the table as soon as possible so that we can further discuss them. I will wait until that point later today.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Yukimura.

Councilmember Yukimura: So the questions will come when the Bill comes up, rather than the Communication?

Council Chair Rapozo: Yes. Again, just the questions that you believe are important before it goes to public hearing so that the public has an idea of what this is about. If you read the agenda, you do not know what this is about, multi-family dwellings. I think the public should have an idea of what this Bill is really going to do before the public hearing. We will have the Planning Department here. Anyone else? Go ahead.

Councilmember Kagawa: I just wanted to add that hopefully the Planning Department can just give us a brief update on what this Bill entails and hopefully that can lead us to at least moving to first reading. I think if we are going to get into a deep discussion that may lead to amendments or changes, then we should wait for the committee meeting, where I believe we should hammer out the nuts and bolts. Thank you.

Council Chair Rapozo: Thank you. Councilmember Kaneshiro.

Councilmember Kaneshiro: As the introducer, I know we are only in the Communication and I was going to hold my comments until the Bill, but basically all this does is allow multi-family units in R-1 through R-6, and does not increase density or do anything, but it just gives the developer or a homeowner the opportunity to try and change the way a building looks by saving on costs, by

having one (1) roof, shared walls rather than two (2) separate houses. That is all it does. As we go forward, just think about that as we get to the actual bill.

Council Chair Rapozo: Thank you. Councilmember Hooser.

Councilmember Hooser: I think it may also allow an Additional Dwelling Unit (ADU) conversion. For example, where I live, we are allowed to have an ADU; a ten thousand (10,000) plus square foot lot. This is one the questions that I am going to ask, but since we are talking about it now, it may allow every home in my neighborhood to be a duplex because they all have ADU rights, so that has a potential to dramatically impact, at the minimum, the aesthetics, if not other things. So I think there might be unintended consequences and it bears a thorough discussion. That is all. I think that the intent is a good one and that it has a lot of potential to help us, but I think we need to look at it very closely.

Council Chair Rapozo: Thank you.

The motion to receive C 2016-190 for the record was then put, and unanimously carried.

Ms. Fountain-Tanigawa: Chair, the next item is C 2016-191 with a companion Executive Session, ES-868. Did you want to take that later?

Council Chair Rapozo: Can you read it into the record first? Who is in charge of this sound system? Are they working on it now? They told me that they just upgraded the system, so we should get our money back. I do want to call the item because there may be someone in the audience wishing to testify on this matter. If not, I would ask that we do this after the Executive Session.

C 2016-191 Communication (08/18/2016) from the County Attorney, requesting authorization to expend funds up to \$50,000.00 for Special Counsel services to represent the County of Kaua'i Housing Agency before the State of Hawai'i Land Use Commission in order to file a 201H-38 Petition for the Lima Ola Workforce Housing Project (Resolution No. 2016-53), and related matters: Councilmember Kualii moved to approve C 2016-191, seconded by Councilmember Kagawa.

Council Chair Rapozo: With that, I will suspend the rules. Do we have anyone registered?

There being no objections, the rules were suspended to take public testimony.

Ms. Sparks: Good morning. Norma Doctor Sparks. I have a concern about the dollars that are being expended or being proposed to be expended for Special Counsel. The reason for that is that I think within the Office of the County Attorney, there should be a process to create a litigation team. When I was a Deputy Attorney General, of course we had the whole State, so some of us were doing mostly advice and consent and administrative law, while others really became the litigation team. I would like to propose that the County Attorney consider the idea of developing attorneys or hiring attorneys who have litigation experience. It appears to me that some of these requests are really to represent the County before an administrative body, such as commissions. I think that if possible, the County should try to develop and reduce the dollars that are being asked for Special Counsel services. Thank you for the opportunity to discuss this today.

Council Chair Rapozo: Thank you. Next speaker.

MATTHEW BERNABE: Matthew Bernabe, for the record. I believe that this is taking away seventy-five (75) acres of coffee fields. I do not know if that is true, but we should not be encouraging reducing agricultural land, especially productive agricultural land. However, with that said, I understand the need for houses; not just affordable, but regular houses so that we can earn more money for real property. The problem I have with this agenda item and the one that we just spoke on, C 2016-190, is nowhere do I hear the discussion about getting the Ahukini Materials Recovery Facility (MRF), down there by where Reynold's is, up and running. Throughout this campaign, I have talked, gone, seen, and realized that we have companies like Macy's dropping off hangers by the big Matson container, sitting in our landfill, versus being cleaned up...

Council Chair Rapozo: Matt, I am trying to...

Mr. Bernabe: I understand, but I want this to be talked about within this Council. If we are going to give them money for Special Counsel...we are on the Lima Ola, right?

Council Chair Rapozo: Yes.

Mr. Bernabe: That is why if we are going to give them money to go to this special board, go to the State, and do all of this...it is germane, but I want some component for us to get our dump situation organized before we expand housing.

Council Chair Rapozo: I understand where you are going, but...

Mr. Bernabe:
germane. Thank you.

That is all I want to say. To me, it is

Council Chair Rapozo: Okay. Thank you. Anyone else wishing to testify? If not, I will call the meeting back to order. Councilmember Kagawa.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: Can I ask Mauna Kea a question? Mauna Kea, you do not need to answer it if it belongs in Executive Session, because we have an Executive Session item in case we need to go there.

Council Chair Rapozo: Let me suspend the rules. Go ahead.

There being no objections, the rules were suspended.

Councilmember Kagawa: My question is simply what Norma asked. We have many attorneys in your office. Why are you asking for Special Counsel and why can your office not do it with the manpower that you have?

MAUNA KEA TRASK, County Attorney: *Aloha.* For the record, Mauna Kea Trask, County Attorney. Honorable Chair and Councilmembers. First off, to address the statements made on the floor, the County Attorneys, as you know...this was pursuant to a discussion that the Office of the County Attorney had with this body, going back to 2014, as well as with Mayor Carvalho, taking in more litigation. We have overwhelmingly done that. I invite everybody in the community to look at the County Attorney's budget presentations to show that we have...we have been running a litigation division for over two (2) years now. We have saved hundreds of thousands of dollars in Special Counsel funds. We only go now under the Charter if there is information that may indicate that there is a special need. The Housing Agency is also present to speak about this. Really what it comes down to is the Land Use Commission (LUC), and I do not know if your layperson knows this, but the Land Use Commission is its own separate, special administrative body. When I spoke with members of the Bar, including respected ex-County Attorneys, to try to gauge their opinion about these things, which I really respect. I believe that as the County Attorney, you look to what your forbearers did and how they analyzed and really appreciate their advice and input, given their decades of actual practice. They said that this can be a special area of expertise, that there are a couple of marque firms that do this and they do it well and quicker, which translates to less expensive proceedings. The Land Use Commission—a lot of procedural process...sixty (60) days before you plan to file a Land Use Petition for redistricting...you file a notice of intent. There is a bunch of notice procedures and

affidavits required to be submitted. Intervenors can be let in. The Land Use Commission can hold pre-mediation discussions and meetings with any or all interested parties...forty-five (45) day review and hearing a possible contested case, and if they are after nothing taken, on the forty-sixth day it is approved. I am prepared to talk in more detail, but I just wanted to correct the possible misperception that was created on the floor.

Councilmember Kagawa: Thank you for your response. It is clear to me why you are asking for it. Cliffside was Agriculture, and 'Ele'ele Nani I and II were Agriculture, so did we have to go to the Land Use Commission for those as well?

Mr. Trask: I believe so, but I cannot speak specifically.

Councilmember Kagawa: Okay.

Mr. Trask: Makoa used to be Agriculture...

Councilmember Kagawa: I do not know why you are shaking your head. Cliffside was Agriculture; I lived right next to Cliffside. Cliffside had sugarcane right next to my house—I know because I was there.

Councilmember Yukimura: But it did not have to go the Land Use Commission.

Councilmember Kagawa: Okay. I am just asking.

Mr. Trask: It is usually an acreage determination. I am not sure.

Councilmember Kagawa: Okay. I just wanted to clarify what Matt was asking on why we are doing housing on agricultural land. All of those were Agriculture before, like Cliffside, 'Ele'ele Nani I, and 'Ele'ele Nani II. It was Agriculture before; there was sugarcane all around there.

Mr. Trask: I think it is the determination of acreage of the parcel is what I think it is.

Councilmember Kagawa: Okay. Thank you.

Council Chair Rapozo: I do not know how large, but anyway, thank you. Councilmember Yukimura.

Councilmember Yukimura: Mauna Kea, do you have an already qualified list of people with that expertise?

Mr. Trask: We do.

Councilmember Yukimura: Okay. So in your normal procurement process you have created such a list with attorneys of that expertise?

Mr. Trask: Correct. I think it was around May sometime...before the fiscal, so about April/May every year we do our yearly professional solicitation, our HRS 103(d).

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Mauna Kea, when I saw the posting...I mean I understand why we have an Executive Session, but I just do not see the need. I think you made it clear that you believe your Office does not have that specialty experience to do land use cases.

Mr. Trask: We just never did one before.

Council Chair Rapozo: Right, which is a good reason to find somebody that has.

Mr. Trask: Yes. In times like this, we did identify in deciding when to go that if we do need to go to Special Counsel and you deem it advisable, that I would assign a litigation attorney to track to create as a learning experience. There is nothing better than to learn on the job with some of the best practitioners in the State, so we intend to do that.

Council Chair Rapozo: I think you do not feel comfortable with your Office taking on this land use...

Mr. Trask: Well, let me qualify that—I think we can do anything.

Council Chair Rapozo: Do not say that or I will vote no on the money.

Mr. Trask: Okay, but with the qualification that we have never done it before, we are very busy now with our current litigation load, and I do understand that Mr. Mackler is here from the Housing Agency to speak on the specifics as to why the Housing Agency wants it. We would appreciate the

opportunity to go Special Counsel and to learn on this one. This body has indicated its importance; the community has indicated that housing is important, so we want to do it as quick as possible. Mr. Mackler is here as well.

Council Chair Rapozo: The request for legal counsel is you. I know that importance to housing, as we heard that last week. The Council supported the 201H process. The reality is that I do not see anything that we can talk about or need to talk about for this item in there. I just do not. I think everything here should be just out here. You are just requesting for some specialty Special Counsel. Any other questions? If not, thank you.

Mr. Trask: Thank you.

Council Chair Rapozo: I will call the meeting back to order.
Councilmember Chock.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Chock: I just want to say that compared to when I first started on the Council, I think that...the reason why I say this is because I want to commend the County Attorney on exactly what he said, that we have really scaled back our use of Special Counsel, and I want to acknowledge, and when necessary, especially under the circumstances that he is mentioning, I think warrants us to support him under the load that he is taking on. Thank you.

Council Chair Rapozo: Thank you. Anyone else? I would agree wholeheartedly. I think to Mauna Kea's credit, they have, and I think we have said it enough times on the floor, that they have terminated several Special Counsel contracts. But I do expect and respect Mauna Kea for saying that this may be something beyond our expertise and we need some help. I would also expect the Office of the County Attorney to utilize this opportunity to train someone in their office in this area of law. This is the first time this County has done a 201H process. This is going to be the first time the County will go before the Land Use Commission, so I do not have a problem with it. I think it is important to look at the Office of the County Attorney in totality and the fact that, and Councilmember Chock has summed it up very accurately, that the requests, if you notice for the general public, is that the request for Special Counsel funds have decreased tremendously and I appreciate that. With that, the motion is to approve. Roll call.

Councilmember Yukimura: Chair?

Council Chair Rapozo: Yes?

Councilmember Yukimura: Can we have Mr. Mackler come up since he is here to talk about how the Housing Agency is going to use this Special Counsel?

Council Chair Rapozo: Okay. Mr. Mackler, may you come up? I will suspend the rules. I am not sure Mr. Mackler will be using it; I think it is going to be the Office of the County Attorney, but Mr. Mackler can come up and say that. I think it is clear that it is the County Attorney's request and not the Housing Agency. Mr. Mackler, are you going to be using this or is it going to be the County Attorney?

There being no objections, the rules were suspended.

Councilmember Yukimura: Well, the County Attorney said that Gary Mackler is here to talk about how the Housing Agency is going to use or work with...

Council Chair Rapozo: No, what he said is that Mr. Mackler is here to talk about the importance of this 201H process and we all heard that last week. Go ahead, Mr. Mackler.

GARY MACKLER, Housing Development Coordinator: Which part of that would you like me to speak to?

Council Chair Rapozo: Answer her question.

Mr. Mackler: What is her question?

Councilmember Yukimura: What is the Housing Agency's plan with respect to the Land Use Commission?

Mr. Mackler: Well, as we shared with you about three (3) weeks ago when we were here with our 201H application, with your approval, our next step to complete the entitlement process for the Lima Ola project to reclassify seventy-five (75) acres of Agricultural land to Urban, to change the boundary to amend the boundary district for that would require us going to the Land Use Commission with a petition to make that request. The Land Use Commission, as we understand, is a quasi-judicial process, and that we would be well-served to have legal representation helping us, advising us, preparing our petition, and navigating us through that process, because we are actually moving us through an expedited process, as we said the last time we were here, that we are actually seeking an expedited review from the Land Use Commission. We want to make sure that the petition is done well, that we cover all of our bases, and that we have all of our

ducks in a row by the time we formally submit the petition. It is...pardon me...it is rare that it rings—but we want to make sure it is done well and that it is done correctly so that when we do go in, we get through that process on our first attempt.

Councilmember Yukimura: In the materials you submitted before us, the Council, "Attachment C," which is the pro forma operating budget, is to be determined by developer at a later date, so there is no operating budget. Are you going to have that when you go before the Land Use Commission?

Mr. Mackler: Sorry. The reason we do not have the pro forma budgets available for you at this time is because the vertical construction for housing at the Lima Ola site is preliminary. It is premature to actually present you with a project pro forma budget. Those budgets will be made available to us when we RFP private developers to actually build the project. We do have pro forma budgets from...

Council Chair Rapozo: Mr. Mackler, the question is...

Mr. Mackler: That is really off topic...

Council Chair Rapozo: Yes. We are going back to the discussion with Lima Ola. The question was would you have the pro forma prior to the submission to the LUC?

Mr. Mackler: The answer to that is no, we would not.

Council Chair Rapozo: Okay. Thank you.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Any other questions for Mr. Mackler or the Housing Agency? If not, thank you very much. I will call the meeting back to order. Further discussion? Unless one of you believe you need to have some questions in Executive Session, I do not see the need. Everything is not protected by HRS, so if not, we will just call a roll call. Councilmember Yukimura.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: I would like to say something before the vote.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: I think the request is reasonable. If you agree that eastern 'Ele'ele is the right place for six hundred seventy-five (675) affordable housing units, one hundred seventy-five (175), which are already established for Habitat, and five hundred fifty (550) for Lima Ola, I can support the one hundred forty-nine (149) homes in the first increment, even though that number alone is huge, especially when you consider the northeast traffic, that it is likely to generate on an already crowded Kaumuali'i Highway towards Kōloa, Po'ipū, and Līhu'e. The fact that there is no safe way for elementary school children to cross the main highway that has been proposed, I do not believe that flashing lights and crosswalks alone are safe. In my opinion, when cars are speeding down the hill at thirty to forty miles per hour (30-40 MPH), sometimes against the blinding sunlight. I also have a concern about the huge investment of water infrastructure alone that will be required for the subsequent phases. The more and more I learn, I cannot support the placement of five hundred fifty (550) units. I can support the placement of one hundred fifty (150) or one hundred forty-nine (149), the first increment. Just the other day, I received information from the Department of Water that there is sufficient water for thirty (30) homes in Waimea. We do not have to build any new water infrastructure and there is enough water for one hundred (100) homes in Hanapēpē Heights. That means that if the County were to support some affordable housing in those locations, it would not have to spend the four million dollars (\$4,000,000) to build a water tank in 'Ele'ele, which is what will be needed for Phases 2, 3, and 4. There is a vacant lot right in Waimea Town that we have looked at for affordable housing, where people could walk to the middle school and to the high school, the grocery store, and the beach. You do not have to put in a whole lot of new infrastructure. It is close to a bus stop. It just shows what kind of alternative housing we could do in other parts of the west side and it belies the Housing Agency's assessment in their environmental assessment, when they assessed alternatives, they assessed the no-build alternative, as if that were the only alternative, that it was either build in 'Ele'ele or do not build at all on the west side. So where in Hanapēpē or Waimea could the County get the land from? As I mentioned, there are several parcels in Waimea that could be bought with money from the State Legislature. There is a total of fifty-one million dollars (\$51,000,000) that is going to be allocated to this project at Lima Ola, and much of it is going to be County, State, or Federal moneys. If we use that for other places, we could have quality projects that would enhance the west side, while providing well-located affordable housing. We all know what happens when good planning is sacrificed. For example, if you do not have a good plan when building a house, then there are errors and waste. On the scale of Lima Ola, there is so much taxpayer money at risk and there is no real business plan or pro forma. There is nothing for an operating budget. So while I think it is okay to hire Special Counsel to represent the County before the LUC, I can only, in good conscience, support the first increment and therefore I cannot support Special Counsel, unless the County downsizes its project and looks at other places for housing on the west side. I also

want to say that it is quite ironic that people who want to give input on this project have to go to O'ahu to testify because the Council refused to schedule a public hearing on this, but we can give fifty thousand dollars (\$50,000) for a special attorney to go to O'ahu to do this work.

Council Chair Rapozo: Is that it? Anyone else? Councilmember Kualii.

Councilmember Kualii: I just wanted to say that this is just another step in the right direction to get something going that has been long overdue and that the Housing Agency, the Administration, and the Mayor needs to be commended for taking these steps and to getting us where we need to go. Five hundred fifty (550) homes, whatever that number is, we need all of them, and we have been arguing for housing on the west side. Maybe it is not as far west as Councilmember Yukimura would like, but it is 'Ele'ele and it is where the lands were available, where the County worked out and negotiated with Alexander & Baldwin, Inc. (A&B). You cannot just build housing anywhere. You need to have land. I commend former Mayor Baptiste, who worked it out that we have this land. I think 'Ele'ele is a prime neighborhood for growth with all of that open land. Yes, it is former coffee lands, but there is still plenty more coffee being raised and still plenty more agricultural lands. So we need to keep it moving. This project is long-overdue and long-needed, and as we talked about before when you came before us at the committee meeting and all, it is very exciting, we need to get this done, and get on to the next one because we need thousands of homes, and affordable homes at that. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I am not against five hundred fifty (550) houses on the west side, but all in one place is not the right idea, especially when there are other much better sites on the west side.

Council Chair Rapozo: Thank you very much. Anyone else? Did we take public testimony on this? We did. Okay. Anyway, with that, I guess like Councilmember Kualii said, commendation goes out to the Housing Agency and the Administration for sticking with it. I agree that this something that we need. It is a small price to pay to do it right. With that, roll call.

The motion to approve C 2016-191 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR APPROVAL: | Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Rapozo | TOTAL – 6, |
| AGAINST APPROVAL: | Yukimura | TOTAL – 1, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Ms. Fountain-Tanigawa: Motion passes.

Council Chair Rapozo: We have five (5) minutes before the caption break. Let us take C 2016-192, please.

C 2016-192 Communication (08/22/2016) from the Director of Economic Development, transmitting for Council consideration, proposed amendments to Ordinance No. B-2016-812, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2016-2017, by revising the amounts estimated in the General Fund, to fund security services for certain community events on Kaua'i. (*Office of Economic Development, Grant In Aid (Special Events Security) – \$53,773.00*): Councilmember Kagawa moved to receive C 2016-192 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion? There is the Bill coming up. Any public testimony?

Councilmember Kaneshiro: Sorry, I have to recuse myself. It is only the Communication. Do I have to recuse myself from the Communication?

Council Chair Rapozo: You can have a seat. I see the note here that you plan to recuse because you are the Chairperson for the Kōloa Plantation Days and I am not sure how you want to handle this. Are you going to recuse yourself from the entire item?

Councilmember Kaneshiro: If you take it individually then I will just sit off on the Kōloa Plantation Days, but if you take it as a whole I will just recuse myself from the whole thing. I understand that taking it individually is kind of a pain. I will just recuse myself from this.

Council Chair Rapozo: Okay.

(Councilmember Kaneshiro was noted as recused from C 2016-192.)

Council Chair Rapozo: I believe he did second the motion, so I can get another second on the motion?

Councilmember Chock seconded the motion to receive C 2016-192 for the record.

Council Chair Rapozo: Thank you. With that, I will suspend the rules.

There being no objections, the rules were suspended to take public testimony.

THOMAS NIZO: For the record, Thomas Nizo. I am with the Waimea Town Celebration. I have been the Chairperson for the Waimea Town Celebration for the past three (3) years and different committee chairs for the last twenty (20), so I am pretty invested in the Waimea Town Celebration. I am here to support the funding for law enforcement services for the festivals. We, the festivals, the Kōloa Plantation Days, Tahiti Fete, and the Coconut Festival, we put on memorable experiences for our visitors and we want to make sure that there are safe environments for those visitors that come and participate with us. We also want to be proactive and address any incidents that could be happening at one of our festivals and we do not want to be a statistic within the world of festival mishaps. All of the festivals, we put heads in beds for Kaua'i. People plan around our events. We just want the County to be engaged in our events to provide some kind of increased Emergency Medical Services (EMS) and police services. With that, the State invests with the Hawai'i Tourism Authority (HTA) and provides us funding with County Product Enrichment Program (CPEP) and signature events. The community invests in our festivals with people, resources, and time, so we just want the County to invest in our festivals and provide funding for police services to keep our festivals safe and provide security. *Mahalo.*

Council Chair Rapozo: Thank you. Anyone else wishing to testify?

PATTY ORNELLAS: Patty Ornellas, American Cancer Society. Cancer affects everyone, directly and indirectly, and as a community manager for Relay for Life, I am in the business of saving lives. Relay for Life events are the largest nonprofit fundraising events that help sustain programs and services that support our survivors and caregivers on a national and local level. Our Relay for Life Kaua'i event, which is held at the Hanapēpē soccer field, has become the top fundraising event in the Hawaiian islands because of the support of our generous community. Year-after-year, we have seen our community participation and support on event night increase at our overnight walk and have witnessed our event grow beyond our expectations. Thus, it is vital that I request a part of this grant-in-aid because this funding is essential with having these off-duty officers present to ensure the safety of all of our participants there. They come to our annual event to celebrate our survivors, who are very near and dear to our hearts,

and they come to remember and honor their loved ones who have passed on and support those who are still fighting back against this deadly disease. We have also utilized the funds to secure our onsite donations that are taken and collected on event night. So to all of our Councilmembers, we please ask you to support and approve this Bill. Thank you.

Council Chair Rapozo: Thank you.

JONI ITO: My name is Joni Ito and I am a volunteer serving on the Event Leadership team for Relay for Life of Kaua'i. This event held at the Hanapēpē soccer field is very inspiring and heart-touching because cancer affects us all. Many people of all ages, from all parts of Kaua'i, as well as visitors attend this event. The Relay for Life not only raises money for programs and services provided by the American Cancer Society, but it brings together survivors and families of past survivors, caregivers, and the community. This event is truly a celebration of life. It gives survivors a reason to fight and it gives hope. The event's overall success in fundraising, attendance, and safety are related to the presence of the police command center and the presence of the Kaua'i Police Officers onsite. For myself, it is reassuring to know that they are there as first responders if any emergency should happen at this event. Their presence promotes safety and well-being to everyone in attendance at the Relay for Life. I ask for your support for this grant-in-aid. Thank you.

Councilmember Yukimura: Excuse me, can you submit your written testimony? Thank you.

Council Chair Rapozo: Anyone else wishing to testify on this Communication? Ms. Parker.

Ms. Parker: Alice Parker, for the record. As you can see, the paramedics helped me survive my trip at the fair, and I want to say that yes, we do need funding there. Several years ago, I was at the Līhu'e Hongwanji Bon Dance and I was stung by a bee and I am highly allergic to bee stings, but the paramedics were able to treat it for me, and my friend took me home. Also, up in Kōke'e, I looked at my friend and said something is wrong—she was having a stroke. The paramedics up there were able to deal with her there, and then call an ambulance up, and she was a couple of weeks in Waimea, and then at Wilcox Memorial Hospital. We need these services there. It is freak accident kinds of things that can happen. We need the services and we need the police in case somebody gets rowdy. Thank you.

Council Chair Rapozo: Thank you. Anyone else? Seeing none, I will call meeting back to order. Further discussion? Councilmember Hooser.

There being no further public testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Hooser: I have a question for the Administration.

Council Chair Rapozo: Okay. I will suspend the rules.

There being no objections, the rules were suspended.

Councilmember Hooser: I am definitely supporting this. I appreciate the testimony that we had earlier. My question is if I was watching this on the television and I was doing an event, how do I get my security...how do you determine which events are supported by the County and which events are not supported by the County? There is a wide-range of parades and festivals and everybody needs security, it seems like. Do you have a targeted list of people who get support? Is there an application process? I think it would be useful for people to understand.

NALANI BRUN, Specialist IV – Tourism: Nalani Brun, Office of Economic Development. There is an application process. Because I work with a lot of the festivals and events and the many other roles that we do at the Office of Economic Development, I am aware of most of the festivals that are out there. These specific grants-in-aid are usually to something that needs police service. So many of them have security, and that is part of their budget already, but sometimes their events begin to touch on something that is going to be much larger. Usually, it has to do with traffic, so with the parades you have to shut down roads and some of the roads are difficult to get into, so you want to have police present. Some of them have a lot of money moving, which can cause for other dangers to come around, so that may warrant police. The good thing about it is a lot of these things are the larger events that happen and puts them together with the Kaua'i Police Department to come up with a plan. As we know, things have happened around the world and changed in our events. It is not the same world we used to live in. So they sit down and actually come up with some really great plans for how to handle the event and maybe change the events a little to make it safer for the public and the visitors, and also so that traffic flows really well so residents that are not going are not impacted as badly. That is kind of what it is. We do have an application. I go out and check with the organizations that are going to be coming in, because it is not an easy application. They need to go to the police and fill out off-duty paperwork, which includes a lot of insurance requirements and everything else. These organizations have to be equipped to do that and have the capacity to handle that. They need to make payments right after the event within two (2) weeks, which means that they need to have money on-hand. What happens is basically these grants-in-aid are

reimbursed once they are done. So they get everything done, they take care of it, and then we come back in and verify with the police on how much money was spent, and then that is the money that they are reimbursed. It is a nice little triangle between the group that is doing the event, the Office of Economic Development, and the Kaua'i Police Department. We are all working together. We originally came together in a big room with all of the events that were interested and needed it, and then we kind of came up with a plan together on how to make this work between the off-duty staff at the Kaua'i Police Department, the regular staff there, the Office of Economic Development, and the organizers. So we have come up with a pretty good system. It took us two (2) years to kind of work out the kinks, while we still have a few and we always will, but this system works. In the last budget, we did get the funding taken away, but with the note that if we came forward with who exactly was getting the funds, then we would have a chance of maybe getting the funding back.

Councilmember Hooser: Great. To be clear, these are for the most part, police officers that are off-duty?

Ms. Brun: Yes, that is the plan.

Councilmember Hooser: And they are not being paid overtime necessarily, right?

Ms. Brun: That was a big part of it, to try to keep the overtime costs for the Kaua'i Police Department down. So this was a way to get them to use off-duty officers instead of overtime.

Councilmember Hooser: Okay. So they are hiring off-duty police officers, they are not paying overtime, and the County is reimbursing them after we verify it?

Ms. Brun: Yes.

Councilmember Hooser: Okay. Great. Thank you very much.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you, Chair. I just wanted to confirm that for the initial sixty-five thousand dollars (\$65,000) that was removed, was that a Council decision in this last budget?

Ms. Brun: Yes.

Councilmember Chock: That is what I thought. I just could not remember. You were told to come back with more specifics.

Ms. Brun: Yes.

Councilmember Chock: So we are actually saving eight thousand dollars (\$8,000).

Councilmember Yukimura: Twelve thousand dollars (\$12,000).

Councilmember Chock: Okay. Thank you.

Council Chair Rapozo: Any other questions? Councilmember Kagawa.

Councilmember Kagawa: This might be for Ken, but every month we have these transfers that come from the Administration and the transfers going on are numerous. Sometimes I wonder why we even have a budget because we have so many transfers going on that I think the budget is just "for show." The amount of transactions by these transfers tells me that the budget is not something that they really try to stick to. Otherwise, we would not have a lot of transfers going on. I am wondering when you have events like this that say, "Hey, we need it," and you folks are trying to solve the problem; why can you not do the transfers? On other issues like traveling to the mainland, there is no problem transferring. When it comes to helping event safety, then we do not know how to transfer...I do not understand some of the rationale. Then they say, "Oh, the Council cut it, so we cannot do it," but when it comes to travel to the mainland, there is no problem. There is a transfer and they go to the mainland for training. What is it?

Council Chair Rapozo: Is that a question for Ken?

Councilmember Kagawa: Yes, we cannot be asked for a transfer when we determine something to be really important, just as other departments find going to trainings in the mainland very important, and they see that they are short on per diem and need more per diem in here, so they just transfer. I am just wondering that when it comes to items on an individual basis that they say, "Hey, we need it. We need it for the safety." Then we cannot do the transfer like other things that we transfer?

GEORGE K. COSTA, Director of the Office of Economic Development: For the record, George Costa, Director for the Office of Economic Development. I cannot speak for the other departments, but we, the Office of Economic Development (OED), take pride and we really work diligently on putting our budgets together to

come pretty tight. If you look at lapses from year-to-year, we come pretty close to our budgets. Yes, there may be some transfers, but during the course of the year we pretty much stick close to our budgets. Even for me as the Director, I review the travel budgets for each of the Specialists. They have to plan ahead what trips they make. From time to time, there may be a few but not too many as far as I know. With regards to your question, I am not sure if your question is that there may be funds in our Department that we could transfer instead of doing a money bill.

Councilmember Kagawa: This is my question: it is September 7th and we are three (3) months into the budget and you are already asking for a transfer now. We have nine (9) more months to go, so there should be excess room. If you determine something to be really important, do the transfer now, and as we reach the end part of the year say, "Well, we funded these things because we felt they were really important, much needed for the community, and since we transferred from this account, this is what we need to replenish." Why are we panicking two (2) months into the year and telling them that we do not have money for something we deem important and we are not using the transfer process? But for other departments to travel and go to trainings and whatever, we have no problem transferring. What is it? I do not understand.

Mr. Costa: Maybe I understand your question better now. When we did work very diligently on our budget, we did allot for sixty-five thousand dollars (\$65,000) for off-duty police, which we have experience in for several years and we were denied and told to come back. So here we are coming back because pretty much every other area in our Department is pretty tight. There is no sixty-five thousand dollars (\$65,000) or fifty-seven thousand dollars (\$57,000) in our budget to...

Councilmember Kagawa: I understand, but does the transfer process allow you to use another account that has excess money right now—we are only two (2) to three (3) months into the budget—to use on a case-by-case basis. If somebody says, "We need this police money now," even though you do not have it in that account already and it ran out, but we are asking for it and you folks fund it through the transfer process out of something else and later come back to the Council and say, "This account is lower because we determined these things." What I am saying is that we have a transfer process that is obviously being used. I can show you the amounts of transfer every month. Like I said, I scratch my head and think why we even have a budget if we transfer that much so early in the year. We just started the budget and we have departments transferring for travel and other things like that. I am saying if something is important, use the transfer process to make sure that public safety is not impacted and do not point the finger at the Council because you have a process to take care of public safety.

Ms. Brun: Typically, we...

Councilmember Kagawa: Then come back later and at that time I think the Council will find it reasonable to fund whatever is short in the budget, but we are only in September and you folks are here already when you have a means to take care of things like this. They should not come here panicking about their event when there is a transfer process to take care of it.

Ms. Brun: I never thought about using...we have kind of tried really hard not to repurpose funds from one line item to the next, and because now that we do not have this line item, we could not transfer into it because we do not have it at all.

Councilmember Kagawa: I will say that I wish more departments were like you. Anyway, I will support it if you folks are sticking to the budget and if you are doing it another way. Hopefully the Director of Finance can have more of the departments follow what you folks are doing. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Chair, I do not want to go too far, but I think it is a good question that is actually for the Director of Finance of the policy of what qualifies or should be qualified for a "transfer," as opposed to how it is you are budgeting and other departments are budgeting. I think that sounds like a question that we can send over separately. Thank you.

Council Chair Rapozo: Thank you. We will call the meeting back to order. Any further discussion?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: I guess I wanted to clarify something that the Communication basically says that...and it was referenced that the Council cut it out, but I think what the Council did in the budget told the Administration that we did not cut out the funding to cut out the services to these events. What the Council, as my recollection is telling me, is we said to find it within your existing budget; that in fact...what is the carryover from one year to the next? Thirteen million dollars (\$13,000,000)? Eight million dollars (\$8,000,000)?

Councilmember Kagawa: Last year, it was fourteen million dollars (\$14,000,000).

Council Chair Rapozo: To find that sixty-five thousand dollars (\$65,000) in your existing “fat” is what we said, and that we were going to try to cut where we could and ask and force the Administration to go ahead and utilize existing funds for these projects; not to cut out the projects. I do not want that message to be sent out that the Council cut out the funding. What we said was to “be more responsible in your spending and find it within your surplus,” and we said “utilize your funding and as the year goes on, if you need to replenish, then you come to the Council with a money bill.” But not two (2) months. I think that is what Councilmember Kagawa is trying to say. We did not say that we are going to cut them to show or cut them so that the public is going to say that the Council cut this budget, and then come back in two (2) months and put it right back like we did not even cut it. I appreciate the Office of Economic Development’s budget, but at the end of the day, there are funds sitting...maybe in the committee meeting I will put up the transfer spreadsheets so that it shows how much moneys are being spent for purposes other than what the budget called for. I really do not want to do that, but I will do that because what I am saying is that there are numerous moneys, a number of dollars that the budget process comes in and says, “We are going to use these one hundred dollars (\$100) for ‘x.’” Then further down the year, we say, “You know what, we really do not need ‘x’ anymore; we need ‘y’ more. So we are going to take from ‘x’ and move it to ‘y.’” They have the ability to move it from any other department into Economic Development to fund these projects. I am not going to support the transfer because the County...it is not just Economic Development; it is the County of Kaua‘i; it is the County’s budget that will have a surplus. So rather than just take from the surplus—no—find it in your budget...find it in the Administration’s...are they fixing this thing or not? This is frustrating because I can hear it echo and screeching. What I am saying is to find it within your budget, fifty-three thousand dollars (\$53,000). Find it within your budget, somewhere in the County where you know you are not going to spend and transfer it to Economic Development. Stop taking the surplus. We just took it out two (2) months ago. It looked good though, during the budget process when the Council said...excuse me...let us take a caption break and get whoever needs to fix this over here as soon as we can.

There being no objections, the meeting recessed at 10:47 a.m.

The meeting reconvened at 11:02 a.m., and proceeded as follows:

Council Chair Rapozo: We apologize for the technical difficulty. I promise to address that before the next meeting. As I was saying, we have a budget process and the Administration comes to the Council and we go into the budget discussions, and then the Council says, “Hey, certain things we removed or deleted or asked the Administration to make changes,” and the fact that the Council agreed collectively, said, “Find it within your budget. We are going to have a surplus, so let

us try to cut all of this excess spending and get it from your existing budget. Find it within your existing budget." Then not to come back in two (2) months and say, "Okay, we want to take again from the surplus." The whole purpose of the reduction of these expenditures was to preserve the surplus, to preserve this reserve at the end of the year; not to use it as a slush fund. I understand that Economic Development's budget is tight. They do not have fat, so there is no way they can transfer from one line to another because they have nothing to transfer from. But you cannot tell me that within the entire County, all of the departments, that they cannot find fifty-six thousand dollars (\$56,000) to transfer into OED. After this Council said that we are not going to put that money in because we believe you can find it somewhere in your existing budget. It is defeating the purpose of the budget process and it is just, "Okay, let us put on a good show for the public, and then in two (2) months hopefully they forget and we will just come back." I am not going to support that. Find it within your budget. As we get closer to the end of the year, as you need more funds, then you come to the Council with a money bill from the reserve; not just use that as, "Okay, we need more money so just go to the Council." No. Find it within your budget. Transfer it. It still requires a money bill and the Council needs to approve a transfer from one department to another, and that is what I am suggesting this Administration do. We just cannot sit here and continue to pay and pay, after the Council two (2) or three (3) months ago said, "No." So either this Council is going to stand firm on their decision that they made three (3) months ago or we are just going to cave in and say, "Okay." Then the whole budget process is for nothing. We said we are going to provide better fiscal management. We, this body, said collectively that we will provide better fiscal management. We are going to expect the Administration to provide better fiscal management. Approving this today basically says, "We were just kidding three (3) months ago. We just said that because the people were watching and it is an election year. We want to let the public know that we are going to cut, but come back in three (3) months and we will put it back." No. That is not how we are supposed to do things. Again, it is not OED, because they do not have the money. I support this, but what I am saying is that they need to get it from their existing "fat" in the budget, somewhere in the County in one of the departments and transfer that over to Economic Development. When it gets to February, March, or April, as we get closer to the end of the fiscal year and you need funds, then you come back to the Council and justify the funds. This is a first reading bill. I am not supporting it because I do not agree with the premise. I do not think this is a precedent that we should be setting. Obviously, it is the will of this Council that is going to move this or not move it. Councilmember Chock.

Councilmember Chock: I like the message that you are saying and the way it was conceived for me when I read this was, "Wow, did we just do this for show?" Yet, I understand the inequities between departments, their budgets, and their inability to be able to transfer. So I guess I can support this on first reading if

we can ensure that moving forward into the committee meeting that we start to have a discussion that really goes back to the Administration in identifying where that specific money will come from. I think that this is an important thing that we need to support. If we can get some assurances from the Administration that they can find where they are going to get it so that we can anticipate a money bill, and then we can get rid of this whole thing sometime. Thank you.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: As someone who voted against eliminating the moneys from the budget during our budget hearings, I want to just read the minutes of the discussion. I do not believe the message was to go find it in your budget, because Chair Rapozo, this is what you said, and you were the one who moved to remove the funding and it was seconded by Councilmember Kualii. This is the minutes of the Chair's words: "I guess my concern is we have nonprofits and we have events that we do security at that these organizations have the ability to pay. They actually have the ability to afford, based on what they get from the events. I am not so sure that it is right for taxpayers to be funding these types of security. Again, if we had the money, absolutely. Now as we are looking at these tough financial times, we spoke all year about how we have to cut the budget and cut the budget, and I am just trying to find ways that we can cut the budget and not cause a problem for our taxpayers, citizens, and visitors." When we commit to things like a one million two hundred thousand dollar (\$1,200,000) operating for an adolescent drug treatment center, we are going to have to cut one million two hundred thousand dollars (\$1,200,000) from someplace else, or as the Chair said, raise taxes. These are the really tough things that we have to do. It is not that easy. I do not think it is good budgeting to say to find it from somewhere else and come back at the end if you do not have money for it. It is either a worthy thing that we think is necessary to fund or it is not, and at budget time we need to say so, one way or the other.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: In looking at the Office of Economic Development's budget, there are areas that I think we could have taken some of these, such as the Kaua'i Visitors Bureau (KVB) consumer promotion item, which has two hundred twenty-five thousand dollars (\$225,000). All I am saying is that if you have something as the Economic Development Director, if you deem something as a really successful event like the Waimea Town Celebration or the Kōloa Plantation Days, and you feel like a lot of tourists come for this event, it is dangerous, and we need it to be done, then basically you transfer from KVB, and later as they run out, you come back to the Council and say, "Hey, I have to use this KVB money to fund some things that we had to do. It is my job as the

Administrator to do what is best for the economic development events on Kaua'i." What I am saying is that there are avenues that I feel, and I am not the manager, but I feel there are steps that can be taken. It is only two (2) months into the budget and we are pressing the panic button already, when you have a lot of available areas that you can use, because other departments use it. I am not telling you to do something that no other department does. You can look at transfers here. A lot of the departments do it on a regular basis, a monthly basis; beginning in the first month after the budget they are transferring moneys, significant moneys. So what I am saying is that in certain areas you have the power to make your Office run even if funds are not there by using other items. Like I said, I think you have a reasonable Council that would replenish those moneys, knowing that you as manager had to make some decisions with the budget that you had, even if cuts were made. I think that is the checks and balances in government. We, at some point, have to do our fiscal part because we are not the ones running the management, but that is just the way government works. I think we should not press the panic button or say that we cannot do it when something needs to be done and public safety is going to be in jeopardy. I think we need to do it—slam dunk. So I believe there is a process. I do not think coming so soon was necessary, but I will be supporting this, only because I have looked at their budget and it is pretty tight. I think we hold Economic Development the same as other departments, such as Fire and Police, but they are not. It is apples and oranges and the Department of Public Works. They do not have as much fat to play with, but what I am saying that as I look through this budget, I can see one million fifty thousand dollars (\$1,050,000) in grant-in-aid accounts that I believe could be moved around if we really had to. Anyway, that is all I have. Thank you, Chair.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: Yes. I will be supporting this. I see it a little differently, that this is something that should have stayed in the budget. I also voted against removing it from the budget. If it had been in the budget, we would not be here today talking about it because it would have been funded. It is a relatively small amount of money in the scope of things. It goes to leverage incredible amounts of money and energy put forth by the community in all parts, whether the west side, north side, or east side, various parades and festivals. What we are doing here is supporting the people in our community, so it makes it easier for them to hold these events. I am a little puzzled of why it has taken it so long to be approved on first reading for fifty-three thousand dollars (\$53,000). Thank you.

Council Chair Rapozo: Anyone else? I would expect the members of the Council that did not support the removal at budget, because they felt it was of need. Again, the projects and the security services are vital to the events, and maybe people are not hearing my message. It is in the not that I do not support the

events; it is just that I do not support two (2) months into the budget, coming in to go after the reserve. That is what I am saying. When your child wants something and they know that they whine and if you give in, they are going to continue to whine. We assured the community, this Council did, that we were going to be better overseers and better fiscal managers, and that is what we do. You cannot tell me that this County cannot find fifty-three thousand dollars (\$53,000) within their one hundred eighty million dollar (\$180,000,000) budget to accommodate this need. The reserve is there for a reason. It is a reserve to carry over to create this reserve to, to build this reserve. The reserve is not a slush fund. It is not a fund that when we need money we are just going to the Council and get money. That is not what the reserve is. But when we allow this to happen, when we allow the Administration to come across with a money bill, "Oh, because you folks did not approve it in the budget, we are coming back now to take it out of the reserve"—that defeats the purpose of the budget. That defeats the purpose of this Council even voting on anything in the budget. Just "whatever, take it away today, but give it back in two (2) months." You cannot tell me there is no fifty-three thousand dollars (\$53,000) somewhere in the budget. If the County does not have any money in the various departments, then I can understand that. This is too early to tell. This is way too early. We are only in September. The fiscal year started on July 1st. It is just a little over two (2) months. As Councilmember Kagawa said, we are pushing the panic button. Again, my "no" vote is not against the projects. My "no" vote says, "Administration, you find the money to fund this important function in your existing budget. Then you come to us to approve the transfer of funds." I can count and I know it will go to the committee meeting, and when it is the committee meeting I will have the transfers on a PowerPoint so that the public can see the amounts of money that this County transfers in between, within departments for like Councilmember Kagawa said, traveling, per diem, parking, and car rentals. What is more important? That is all I am trying to say.

The motion to receive C 2016-192 for the record was then put, and carried by a vote of 6:0:0:1 (*Councilmember Kaneshiro was recused*).

C 2016-193 Communication (08/22/2016) from the Director of Finance, transmitting for Council consideration, proposed amendments to Section 2, Ordinance No. 891, relating to Authorizing the Issuance of General Obligation Bonds of the County of Kaua'i for the Purpose of Financing Certain Bonds of the County; Fixing or Authorizing the Fixing of the Form, Denominations, and Certain Other Details of Such Bonds and Providing for the Sale of Such Bonds to the Public, to account for the current Capital Improvement Projects that were not originally cited in the initial bond issuance: Councilmember Kualii moved to receive C 2016-193 for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo:

Any discussion? Councilmember Yukimura.

Councilmember Yukimura: Can we just get Ken to tell us exactly what is happening here?

Council Chair Rapozo: I would like to move this out and have that discussion in the committee meeting because I have a ton of questions as well. I honestly do not understand what this request is. If you have a general question, I have no problem with that.

Councilmember Yukimura: It is just following your guideline of people needing to understand so that they can testify at the public hearing, which the committee meeting is after the public hearing. So just that people know what this is about.

Council Chair Rapozo: With that, I will suspend the rules.

There being no objections, the rules were suspended.

KEN M. SHIMONISHI, Director of Finance: Ken Shimonishi, Director of Finance.

Councilmember Yukimura: Hi, Ken. Thank you for being here. I just want to know basically what this ordinance is doing and the implications of it.

Mr. Shimonishi: It is just updating what we currently have to accept the bond projects and appropriations or changes that we made in the most recent adoption of the Capital Improvement Projects (CIP) Budget. That is just a requirement that we do every year, kind of like a housekeeping to reference that Ordinance No. 891 is now updated to reflect the most recent changes that were passed as part of the CIP Ordinance.

Councilmember Yukimura: So it is the ordinance that authorized the general obligation bonds and...

Mr. Shimonishi: I guess it is Ordinance No. 891, the initial...when we went out for the bonds, we had a list of projects, but every year as we go through the CIP Budget process, there are amendments, changes, projects added, projects defunded, and so on, so we are just saying that it is not updated to reflect the most recent changes.

Councilmember Yukimura: Okay, so it is just correlating the Bond Ordinance with the CIP Budget that we passed?

Mr. Shimonishi: Correct.

Councilmember Yukimura: In doing that CIP Budget, we were very mindful of the guidelines for what projects are appropriate for bond moneys or not.

Mr. Shimonishi: Correct.

Councilmember Yukimura: Okay, so it is basically housekeeping?

Mr. Shimonishi: Right.

Councilmember Yukimura: Okay. Thank you very much.

Council Chair Rapozo: I have one real quick question. I notice that nothing really changes, except that there is an addition of Ordinance No. B-2016-813. What is 813?

Mr. Shimonishi: That would be the most recent CIP Budget Ordinance adopted.

Council Chair Rapozo: Okay, so it is an addition of...

Mr. Shimonishi: Right, we are just adding each year's...

Council Chair Rapozo: For the new fiscal year?

Mr. Shimonishi: Correct.

Council Chair Rapozo: Okay. Thank you. Any other questions? If not, thank you very much. This is just the Communication. Any further discussion or public testimony? Go ahead. I will suspend the rules.

Ms. Sparks: Norma Doctor Sparks. In order to really understand what these bonds are for, one of the questions that I am wondering about is in terms of the Adolescent Treatment & Healing Center, five million dollars (\$5,000,000), whether or not that bond is for a general obligation bond and whether the fact that the program is going to be run by a private agency and not by the County itself, whether or not there will be some impact on the bonds that this County could actually get. Now if, in fact, the bond for the Adolescent Treatment & Healing Center, for example, is really coming through the State, then there may not be any issues. But I think for the public, as an example, the adolescent unit and the other kinds of bonds that we are talking about, it would be very helpful for us to learn more about that as well. Thank you.

Council Chair Rapozo: Thank you. Anyone else? We will have the larger discussion at the committee level. With that, I will call the meeting back to order. Further discussion? Again, this is a motion to receive.

There being no further public testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2016-193 for the record was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kaneshiro was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.*)

(Councilmember Kaneshiro was noted as present.)

C 2016-194 Communication (08/22/2016) from the Director of Finance, requesting Council approval to dispose of the following government records, pursuant to Hawai'i Revised Statutes (HRS) Section 46-43 and Resolution No. 2008-39 (2008) as amended, which have been kept for over seven (7) years and are no longer of use or value:

- Contract Folders (Fiscal Year (FY) 2004 to FY 2005)
- Purchase Orders (FY 2007 to FY 2009)
- Procurement Work Folders: Request for Proposal (RFP) (C4056) (FY 1993), RFP P0088 (FY 2005), Exempt RFP X-20 (FY 2005), IFB (#2872-#2936) (FY 2005)
- Professional Services – Exempt: X7-PROF-05/06 thru X8-PROF-07/08 (FY 2006 to FY 2008)
- Documentation for: Sole Source Procurement FY 2005/2006 – FY 2007/2008 (FY 2006 to FY 2009), Exempt Procurement FY 2004/2005 – FY 2007/2008 (FY 2005 to FY 2009), Emergency Purchase FY 2005/2006 to FY 2007/2008 (FY 2005 to FY 2009)
- Logs: Certified Mail and Professional Services (FY 2008 & Older)
- Written Informals (FY 2009)
- Auction: Auction Documents (FY 2007 to FY 2009)
- State Price Lists (Various)
- Accounts (FY 2009)
- Trust Fund (FY 2009)

Councilmember Kualii moved to approve C 2016-194, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion? Councilmember Yukimura.

Councilmember Yukimura: Can we have Ken or Ernie come forward?

Council Chair Rapozo: Okay. The rules are suspended.

There being no objections, the rules were suspended.

ERNEST W. BARREIRA, Assistant Chief Procurement Officer / Budget Chief: Good morning. Ernie Barreira, Budget & Purchasing Chief.

Councilmember Yukimura: Good morning, Ernie. The items of concern to me are the Professional Services Exempt and the Documentation for Sole Source because those are outside of the normal rules. Are there records of this somewhere else electronically, or once we get rid of it that is it and there are no other records?

Mr. Barreira: First of all, all of the procurements, Professional Services Exempt and Sole Source, are actually all clearly delineated within the procurement code and the associated Administrative Rules, so they are all governed by certain procurement standards that have to be met.

Councilmember Yukimura: Yes.

Mr. Barreira: The records are support records, so they would be the type of records that we utilize to advance a specific procurement, so they would separate and apart from contract records that exist. Once again, as I reported last to you when I came for a records request before the Council, our records are completely electronic as of July 1, 2011, so we have substantial redundancy and therefore are able to dispose of the paper records. These are the old records that are in play where we do not have corresponding electronic records, but they have been deemed to be obsolete based on the requirements within the law, in terms of record retention and based on whether there is any pragmatic need for these documents.

Councilmember Yukimura: So the answer to my question is that there are no real records left after we destroy these records?

Mr. Barreira: Other than contract records that may not have yet met the time standard, that is correct.

Councilmember Yukimura: Yes, but these are Fiscal Year 2006 to 2008, up to 2009. So you said as of July 2011 we have electronic files, but we do not have any electronic file backups for these?

Mr. Barreira: No. The requirements under the law is that we retain records for seven (7) years after closure of the effective procurement.

Councilmember Yukimura: It would only be if there is some kind of question, I guess statute of limitations would be passed, but it would be mainly for archival or historic purposes if people wanted to review any of these documents?

Mr. Barreira: That is true, Councilmember. If that was the standard, we would have to have massive warehouses to hold all of the governmental documents that are governed by this requirement.

Councilmember Yukimura: Yes. Okay. Thank you.

Council Chair Rapozo: Any other questions? Councilmember Hooser.

Councilmember Hooser: Just a quick question—what is a “Written Informal?”

Mr. Barreira: A Written Informal is a type of solicitation that is actually rarely used any longer, but it would be for the types of procurement where the purchase price is anticipated to be above fifteen thousand dollars (\$15,000), but under our formal threshold of twenty-five thousand dollars (\$25,000), where we execute a written informal to ensure adequate competition. The reason we hardly use that now, Councilmember Hooser, is because with our electronic resources we are able, under the law, to obtain three (3) price quotes, and so long as we are able to obtain three (3) price quotes, we have met all legal requirements and we no longer need to pursue the old practice of the written informal bid.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Any other questions? If not, thank you very much. I will call the meeting back to order. Further discussion?

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2016-194 for the record was then put, and unanimously carried.

Ms. Fountain-Tanigawa: Chair, this brings us to the bottom of page number 3, C 2016-195. Again, we have a companion Executive Session.

C 2016-195 Communication (08/24/2016) from the County Attorney, requesting authorization to expend funds up to \$20,000.00 for Special Counsel's continued services provided in County of Kaua'i vs. Hanalei River Holdings, Ltd., et al., Civil No. 11-1-0098 JRV (Condemnation), Fifth Circuit Court, and related matters: Councilmember Kuali'i moved to approve C 2016-195, seconded by Councilmember Yukimura.

Council Chair Rapozo: We do have an Executive Session scheduled and this one is currently in litigation, so we will have the opportunity to talk to our attorney and inquire. We will take public testimony. I will suspend the rules.

There being no objections, the rules were suspended to take public testimony.

MICHAEL SHEEHAN: Chair and Members of the County Council. Michael Sheehan is my name. I am also Hanalei River Holdings in that proposal request. What you have here is the tip of an iceberg or you are at a fork in the road, traveling through an interesting forest. This is going to be far from a twenty thousand dollar (\$20,000) exercise. With this appeal before the Hawai'i Supreme Court now is all about the process that the County Administration and the Office of the County Attorney has engaged in, in an attempt to acquire my boatyard and revoke my operating permits that were interestingly originated in 1986, thirty (30) years ago, right down below here in Mayor Tony Kunimura's office. What we are seeing is a wrap up of thirty (30) years of very interesting time spent. If you fund the County Attorney's request for a mere twenty thousand dollars (\$20,000) and not picking some point in time, which I would suggest, is about right now, it is about time to end this nonsense. I think thirty (30) years is far, far too long. There are many, many venues that are available to resolve this besides having to go to the Hawai'i Supreme Court. The Hawai'i Supreme Court has an alternative dispute resolution section, which again, I ask and propose the County request their services to try to resolve this, as I have made pretty clear to anyone who cares, which lots of people do care. Myself and my family supports the creation and the expansion of Black Pot Beach Park and would like very much to have my former boatyard included in that expansion. We are not the parties responsible for these millions of dollars in Honolulu lawyers' cost that will continue if you fund this twenty thousand dollar (\$20,000) request. It is an indication of the processes that the County Attorneys and the attorneys for the County have been recommending, and it is really only to try and screw me over and all it really does is irritate me, and what it really does is it costs the taxpayers hundreds and hundreds of thousands of unnecessary dollars. It needs to stop sometime. This is crazy. How many millions

have been spent over the years since former Mayor Yukimura's Administration began this anti-tourism rant?

Council Chair Rapozo: Mike, I have to stop you right there. Anybody else wishing to testify on this matter? If not, you can have your second three (3) minutes.

Mr. Sheehan: Okay. It was a wonderful exercise. I think we have all learned a lot and have all learned that this is probably not the way we ought to be doing these kinds of thing in the future. I do not like designating myself as a guinea pig, but it is what it is. I would really like to call on you folks to try and find better ways to wrap this up. My family is still committed to enlarge and expand the park over and beyond that initial three (3) acres or seven (7) more acres. We tried to donate it, but the Administration did not want to accept it. Instead, they rather chose to come down with a Special Weapons and Tactics (SWAT) team and K9 dogs and get the court to ex parte order there immediate seizure of the property. Well, the problem is that they made a few mistakes along the way, and unless and until they join with us to petition the Land Court for the re-designation and the re-subdividing of the existing properties, I will continue to be the legal owner, though the County will be in possession and you will have paid these funds. The County Attorneys and the attorneys for the County are full of all sorts of other excuses, but the fact is that we are at a stalemate and you folks need to fully and better inform yourselves as to what the real hold up is, and the real hold up is in the Office of the County Attorney and the offices of the County Attorneys. We are wasting a lot of time and money and the public is suffering unnecessarily. I would like you to ask you to ask some really hard questions when you go into Executive Session and let us find a way to wrap this thing up and move this program forward. If there are any questions, I would be happy to try and answer them.

Council Chair Rapozo: We will be asking our questions of our attorney in Executive Session.

Mr. Sheehan: Thank you.

Council Chair Rapozo: With that, I will call the meeting back to order. Any further discussion?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: If not, we will hold up on the vote until after the Executive Session. Can we have the next item, please?

C 2016-196 Communication (08/30/2016) from the Acting County Engineer, requesting Council approval to submit an application and indemnify the State of Hawai'i Department of Education for use by the Department of Public Works of the King Kaumuali'i Elementary School Cafeteria to conduct a public meeting: Councilmember Kualii moved to approve C 2016-196, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-196 was then put, and unanimously carried.

LEGAL DOCUMENT:

C 2016-197 Communication (08/08/2016) from the Mayor, recommending Council approval of a Dedication Deed from Makaleha Gardens LLC, conveying roadway widening lots to the County of Kaua'i for roadway widening purposes, Subdivision of Lot 71-A Being all of Grants 7517 and S-14707 Kapa'a Homesteads First Series into Lots 1 to 6, Inclusive, Roadway Widening Lots A & B, Kapa'a, Kawaihau, Kaua'i, Hawai'i, Tax Map Key (TMK) No. (4) 4-6-06:17, 19, and 20 (por.).

- Dedication Deed

Councilmember Kualii moved to approve C 2016-197, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Discussion? Public testimony? The rules are suspended.

There being no objections, the rules were suspended to take public testimony.

Mr. Bernabe: Matt Bernabe, for the record. I know this area. I am just curious why we have to widen the lots. The area does not have a problem. They should work on other areas of that Kapahi area before they do this. I know you folks cannot answer, but I just want to know why.

Council Chair Rapozo: Anyone else wishing to testify? Is the Planning Department here today? Can someone come up and answer that same question because I have the same question?

LYLE TABATA, Acting County Engineer: Good morning, Members. Lyle Tabata, Acting County Engineer. Actually, the conditions of the subdivision was required by the Planning Commission, gets recommended by the Planning Department to the Department of Public Works, and then we just confirm that the work was completed. This was part of the conditions of the subdivision approval to widen sections of our roadway right-of-way. Michael Moule has some drawings to show. I will turn the details over to him.

MICHAEL MOULE, Chief of Engineering: For the record, Michael Moule, Chief of Engineering for the Department of Public Works. This is a fairly straightforward situation. We are going to show a map that shows it here. Effectively along Kawaihau Road, this is a large parcel being subdivided...it has been subdivided, I should say; it is final. There were two (2) roadway widening lots. The gray here is the existing pavement of Kawaihau Road. This black line here, here, and here is the existing property line. The subdivided parcel is this large area here that goes much beyond this map. This is just a portion of the construction drawings where they are doing some improvements on their site. This particular property corner right here is actually within the pavement of Kawaihau Road, and then right over here, the edge of pavement is roughly right at the existing property line for the right-of-way. What the County owns is the road right-of-way, this area from this line to that line, and it continues here. You can see the angle points. The challenge with these old roads that have been around for decades is that the rights-of-way were often laid out with angle points. Roads are not built with angle points; they are built with curves, so the road did not always follow when these roads were built years ago, often by sugarcane companies or others. They did not always follow the right-of-way perfectly. In this case, the road got built on a portion of private property. So as part of the subdivision, one of the conditions of approval was to subdivide out two (2) roadway widening lots, which is this triangle here, in this green area here, which actually goes down a really thin layer down here as well. You can hardly see it. In order for us to have the pavement of the existing Kawaihau Road, plus approximately five (5) feet of grass shoulder so that we can maintain the road adequately in the future without being on private property. That is the purpose of this dedication.

Council Chair Rapozo: Has the widening has been completed?

Mr. Moule: There is no road widening that needs to be done. It is just widening of the right-of-way. It is called a road widening lot; that is what we call it. But there is no actual widening being done here. They do propose

to build a driveway right here that happens to be at one of these lots, but that is there driveway into their site and that work will be on their site, connecting to our roads. They will be working within the current and new roadway right-of-way there, but there is no actual road being widened here. It is just the dedication of the property so that we can maintain the pavement and have five (5) feet of grass space outside the pavement for maintenance.

Council Chair Rapozo: Any other questions? If not, thank you very much. I will call the meeting back to order. Further discussion? Seeing none the motion is to approve.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-197 was then put, and unanimously carried.

CLAIM:

C 2016-198 Communication (08/09/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Stephen Lucas, for damage to his property, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kuali'i moved to C 2016-198 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2016-198 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried.

COMMITTEE REPORTS:

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2016-11) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2016-10 Communication (07/25/2016) from Councilmember Hooser, requesting the presence of the Acting County Engineer, to provide a briefing on plans to address the traffic congestion on the east side of Kauaʻi. This briefing should include, but not be limited to:

- The plans and strategies to address the traffic congestion;
- Whether the State or County is responsible for the project, or whether the project is a combined effort between both governmental jurisdictions;
- The timeline for start and completion of the project(s);
- Whether alternative projects exist, and the order of priority for these projects; and
- Any immediate plans to alleviate the traffic congestion,”

Councilmember Kualii moved for approval of the report, seconded by Councilmember Kaneshiro.

Ms. Fountain-Tanigawa: Chair, we do have one (1) registered speaker, Glenn Mickens.

Council Chair Rapozo: Okay. I will suspend the rules.

There being no objections, the rules were suspended.

Mr. Mickens: For the record, Glenn Mickens. Once again, I want to thank Councilmember Hooser for bringing up the traffic problems in the east side of Kauaʻi and asking the hard questions that need answers to solve them. For me, one of the most important questions that need answering is why bike lanes are being built along all of our roads and highways, lanes that narrow and exacerbate the problem that we are trying to fix—traffic? These lanes are seldom used by bikers and are very dangerous and are accidents waiting to happen. Lee Steinmetz told me that these paths are not mandate for government mandate for getting matching federal funds. Who is pushing for them to happen? Any drop of common sense says that these lanes are counterproductive to solving our traveling problems. Where is this stupidity coming from and why? We must stop talking about opening our cane haul roads and get them paved and opened, as was done with the Kapaʻa bypass road many years ago. It was cane haul road and we had it paved and open in eight (8) months. As badly as we need all of the roads on Kauaʻi to alleviate traffic, what are we waiting for? As Councilmember Kagawa said, we have spent millions of dollars on our contraflow over the years, whereas another lane or otherwise would have saved a lot of tax money. Action must start and talk has to stop. As Council Chair said, why are we not spending as much time, money, and effort in solving our traffic problems as we are and getting a Transportation

Investment Generating Economic Recovery (TIGER) grant to beautify Hardy and Rice Street? Basically, I would love to hear the Administration or anybody tell me what it is...why are we mandating that these bike lanes are being put along all of our roads every time we build a road someplace? You said it, Councilmember Kagawa. They are hardly used. You never see anybody on them. They are narrowing the roads and creating more traffic.

Council Chair Rapozo: Thank you. Anyone else?

JEROME FREITAS: We are talking about the State highways.

Council Chair Rapozo: Yes. This is the minutes from last week's meeting regarding the congestion on Kūhiō Highway.

Mr. Freitas: I remember about forty (40) years ago...I do not know if you remember Billy Fernandez, the senator...well, what happened and what he was saying was that they wanted to make a bypass road from Oloheua all the way back and come out in Hanamā'ulu. They had an opportunity to do that, but I guess the Kapa'a business people did not want that. They said that they were going to lose business. I am going to bring back what happened, but forty (40) years ago when I used to travel on the road with my mom and dad, you would only see five (5) or ten (10) cars on the road coming back and forth. Now, we have a lot of traffic because we have more tourists coming in and people have a lot of cars...in a household, there could be two (2) to three (3) cars. Fixing up this traffic is going to be hard. Anybody can talk about it. It is easy to talk, but nothing has been done for many, many years. I think it is about time...actually, this is a State's *kuleana* in a sense. The County has a lot of roads that they need to fix themselves, too. So take care of your backyard first before you worry about the State or whatever it is. I talked to Ray McCormick many, many times and right now the update is that...I mentioned his name already, but they are going to get an extra lane, maybe about five (5) years from now, coming from Wailua Bridge, going all the way in front of the golf course, cover up the ditch or whatever it is, going all the way out to (inaudible). Right now, easing the traffic is not going to happen. There is no way. So be truthful with everybody. It is not going to be done overnight. Regarding the contraflow, when I talked to Ray, he said that the hours might be...rather than early in the morning, it may be a little later. So that is all I wanted to say. Council Chair Rapozo, Vice Chair Kagawa, and Councilmembers and staff—thank you very much for being here. Thank you.

Council Chair Rapozo: Thank you.

JOE ROSA: Good morning. For the record, Joe Rosa. I am going back sixty-five (65) years. You probably were not even born...you

probably were just youngsters. Sixty-five (65) years ago, the State had a plan that would have alleviated all of these problems that we are facing right now, and it is only because of politics that it did not become a reality. I can go on back and tell you all something that you can look into—the County of Kaua‘i in the 1960s, when they had a big problem and the way Stan Baptiste’s home got flooded out because of the old Kamalu Bridge...that was clogged up and it backed up in the valley and flooded his home. They got a position that they made a new bridge. They came into the State Department of Transportation’s office to find out where the road of the *mauka* arterial was going and it was going down Kamalu Road. So they asked, “Are they going to make a new bridge for ‘Ōpaeka‘a Stream?” The thing was, “Well, they are going to make a new bridge because they have to build a higher bridge so that the traffic could go more smoothly.” It was built. So the County can coincide the building of that bridge for that *mauka* arterial that the State had planned way back in the 1950s. In 1950, when I first started to work with the territory and later the State of Hawai‘i, that was part of the back *mauka* construction for the highway that would have alleviated this problem. We would have an additional two (2) lanes, running nearly parallel with Kūhiō Highway. Why does the State not go back and you folks work with the State and ask them what happened to that where money was spent for surveys, studies, and everything. You are still going back to make studies. Those are things that people are not aware of because too much politics were involved. I know that money that was studied and used ended up in projects in Honolulu, because on Kaua‘i we had the charge code F056...that was assigned to Kaua‘i for any project number and the money was set aside to get things started to make things a reality was used in Honolulu. Some of it was at the Kāne‘ohe-Kailua sewer project and the annual report for the (inaudible) for the State you see a F056 project. That money was spent in Honolulu. It is time that the Department of Transportation people in Honolulu look into that because it is only...

Council Chair Rapozo:

Okay, Joe, that is your time.

Mr. Rosa:a mile and a half to connect Ma‘alo Road with Kamalu Road. So look into that instead of spending money with consultants and making studies. Thank you.

Council Chair Rapozo:

Anyone else? Again, these are just the minutes from last week’s meeting.

Mr. Bernabe: Matt Bernabe, for the record. Yes, last week I talked about a bunch of the solution aspects of what the discussion talked about, but today I want to say my primary observation. We have bad drivers. I will be in crawl traffic at five miles per hour (5 MPH) and have vehicles at three (3) car lengths, holding back traffic. The State said that their observation, as is mine, that we do not get enough vehicles through intersections, and that is one of the

rationales. The other one was from a red light...when the light turned green, we did not get enough vehicles through that intersection because we have a delayed...it is cultural...we are on "island time" here. This is what we always say, "island time." I got into a discussion about tailgating, because you can view tailgating as two (2) ways: one, you are doing the speed limit or slightly above it and somebody is on you, and that I do not agree with; however, if the speed limit is twenty-five miles per hour (25 MPH) and you are going seven miles per hour (7 MPH), then you cannot grumble that I am tailgating. You are going too slow and you are impeding traffic. I also talk about the people making left turns at the bypass and I just recently...I keep doing this...I am the sixth person to make a left turn and the people are letting everybody go and I can see the traffic all the way to Foodland. So I stop and flash my lights and I flash the lady and wave so that she can come, and she sits there and argues with me, "No, you come," and with no words...I am sure...I can see her mouth moving, but then she realizes that she is holding up traffic so she drives on. That is impeding the flow of traffic. This is bad drivers. In this discussion online, a bus driver...I respect her and I have known her my whole life...it is my friend's mom, but she pointed out that Kaua'i drivers, and she sees everything, should be retrained and that they should have classes. She even went out to say that we should pick up the bill, so maybe instead of always letting our license continue, maybe every once in a while we need a refresher course, in her words. I will say that obviously we need some new avenues on the east side, but it has to have a component of reeducation. I am on the roads every day. I take my kids to jiu-jitsu and I take my daughters to work. I am the one. My wife works all day. I work, too, but I am the one who leaves work and goes and gets my kids. So I am on the road. I see bad drivers, I see them racing, I see the people on island time, and I see the people on corporate time that have to go to work, or get their kids somewhere, and they are in a hurry. We need to get the flow moving.

Council Chair Rapozo:
Second time? Mr. Mickens.

Thank you. Anyone else for the first time?

Mr. Mickens: For the record, Glenn Mickens. I do not think there is any of you Councilmembers that do not agree that traffic is probably the number one problem on this island right now. The people sitting here who are watching this hearing is wondering what is being done. What constructively is being done? We sit here and talk and talk. We get questions asked by Councilmember Hooser, and the rest of you folks are asking the same questions. What is going to happen when Coco Palms opens up? We will have another one hundred (100) to two hundred (200) cars coming out of there. Where are they going to go? We have the Hanamā'ulu project with about four hundred fifty (450) units that are going to be there. Other places are going to build up. Are we just going to continually do "ready, fire, aim?" So do we do nothing about it and wait until the problem is there, and then we cannot fix it? Like Joe said, how many years ago

when Billy Fernandez proposed that route over the powerline road from the south side to the north side, and then the Kapa'a Business Association stopped it. They did not want that. They said that it was going to make Kapa'a a ghost town, which was ridiculous, because if you are going to go to the gas station or shopping, you want to go from one side to the other without stopping. Again, we took the bull by the horns when we built the bypass road. We built it in eight (8) or nine (9) months. It was already an existing road, so did not need an EA or an Environmental Impact Statement (EIS) to do it. What is the holdup here? What is the next step? Again, we cannot just sit here and say, "Well, wait until there are one thousand (1,000) or two thousand (2,000) more vehicles on the roads before we try and do something." We have gridlock coming. Anyway, I hope that you hold the Administration or somebody's feet to the fire and said, "Hey, let us do something besides talk." Thank you.

Council Chair Rapozo:

Thank you.

Mr. Freitas: My name is Jerome Freitas. Council Chair Rapozo, Council Vice Chair Kagawa, the rest of the Councilmembers and staff. I want to make a note...we are always talking about the old haul cane road, but I went to talk to the Department of Transportation a couple of weeks ago and they said that they did not fix the road, so you cannot use it as a permanent road. Grove Farm and Hawaiian Homes owns the property and it will take a lot of liability to fix that road, so forget about that road. They are only going to use that road only for emergencies at this time. So forget about the road, so we have to look at other options and it is going to be a tough one, but we have to all work together and get it done. Thank you.

Council Chair Rapozo:

Thank you.

BRUCE HART: For the record, Bruce Hart. I want to take some pressure off of the Council and the Administration of the County of Kaua'i. I do not personally expect this Council to come up with hundreds of millions of dollars to really address the road problem. Like Joe said, it has been a long time coming and it costs a whole lot more. What I came up for, I wanted to remind the public that the real problem is with the State's Kūhiō Highway. That is not the County. It is not fair that the County of Kaua'i thinks that the County Council and the Administration is the one holding up this problem with traffic. If we could get the State to commit, and then begin, not just talk about, but get going on some solutions. It does not let us off the hook, the County, that we should do everything we can, timing traffic lights and whatever, but that is not going to fix it. It is going to have to be reconstruction and rebuilding of the State of Hawai'i's Kūhiō Highway. I just wanted to take the pressure off of you folks. Thank you.

Mr. Rosa: For the record, Joe Rosa. Like I was saying, I am talking about something that I know about because I worked on it in my thirty-six (36) years with the Department of Transportation. We surveyed across the Wailua Falls area up there, the connection of Kamalu Road, and all of that. Money was spent in wages for the people that made the survey, but yet the Department of Transportation did not complete it because of politics. Why do they not dig up those records? They have the field books probably the office yet, in the basement someplace. There are too many studies, studies, and studies, but no action. Money is spent foolishly. Those young workers in the Department of Transportation in O'ahu, they do not know what the problems are here on Kaua'i. When they took the policy away from each island to do their own highway planning, it caused all of this backlog, and it has been thirty (30) years since Kapule, a major highway fixed. This little section here on Kaumuali'i by Kukui Grove has not solved anything. We did not have a problem here in Lihu'e. Why they did they do that fancy thing that made it look like a freeway in Los Angeles. People said it is not even by the speedway in that area right now. That is true because cars just pass by you now and that is taking Kaua'i away from being Kaua'i, with those big, freeway looking things made out of concrete. So keep Kaua'i, Kaua'i. We need the two (2) *mauka* lanes up there, plus Kapule Highway. We would have eased all of these problems. The infrastructure was planned for the future, but yet too many studies and politics were involved. I have not seen anything from our Kaua'i legislators getting money appropriated for making a survey, like we used to go out and do the work to see if it was feasible. I do not see these O'ahu consultants come down here and make studies. When are they going to get started? Everything they say is substandard, that the roads are substandard. The routes up *mauka* in the Lihu'e area were about what the plantation roads were made to haul cane. So there is nothing. To make it up to standards, do what they had to do like in the Kapa'a alternate route there that they have, the so-called bypass road. They brought it up to standards quick as ever. A lot of the same things could be done with the Lihu'e *mauka* area. One of the things they could hook up...

Council Chair Rapozo: Okay, Joe. Your time is up.

Mr. Rosa: From Bette Midler's property...

Council Chair Rapozo: Joe...

Mr. Rosa: Yes, I am going to wrap it up.

Council Chair Rapozo: No, you need to end because you have the red light. I apologize.

Council Chair Rapozo: Thank you. Next.

Councilmember Hooser: Just really briefly, Chair, because I know these are just the minutes, but the testimony of the public, I think, is indicative of the importance of this issue in our community. The traffic on the east side...it is bad all over, but particularly the Wailua-Kapa'a corridor. What I would like to do is ask staff to put this request out to the Administration, a letter requesting that they come forward and updating us, perhaps in December. We can also invite the legislators, the delegation: three (3) House of Representatives and the Senator. So right before the legislative session, we could put this back on the table, front and center. This is the only way, in my opinion, that we will see action. If you look at history, the contraflow only happened after citizens had had enough and pushed and pushed. The same was with the existing bypass. The Kapa'a Business Association and others just had enough and all of a sudden we have some solutions. I think it behooves us to keep this front and center, and the Administration is the appropriate lead on this. So whether it is December or January, I believe that we need to have this back on our agenda so that it does not slip another two (2) years in

scheduling and implementation of the four (4) lanes in front of Coco Palms, at a minimum. Not to mention the other possible solutions that the County could do separate from State. Thank you.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: As soon as that last committee meeting was done, Aida drafted a letter to the Deputy Director of Transportation, Ed Sniffen, who was physically here in March of 2015 and told us that priority number one, which was expanding permanently four (4) lanes in front of the Wailua area that construction was slated to begin in 2016, and that funding was in place. Now to hear at the last committee meeting that the projected construction date is now 2018 and the funding is gone. To think that we were almost ready to go with a projected start date, and that is why I asked what happened? That was my question to Mr. Sniffen. Why was it that funds were in place and then it suddenly became unimportant and you took the funds and you delayed it two (2) more years? I am curious to see his response there, and I think once we get that response, we need to take some kind of action, because obviously the response is not going to be good. I do not think the project ever became less important. It only became more important as time went. Anyway, I am very curious to see what kind of response Mr. Sniffen is going to have for us.

Council Chair Rapozo: I really think the only way that the pressure is going to be put on, as Councilmember Hooser suggested, is to get them all here so that they cannot point fingers at anybody else and everybody has to basically say why. I agree. It is frustrating. It is not getting any better. If we do not put the pressure, it just will never get done, because there will always been another priority issue on another island and that is the frustration.

The motion for approval of the report was then put, and unanimously carried.

A report (No. CR-PWPR 2016-12) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2016-11 Communication (08/04/2016) from Council Chair Rapozo, requesting the presence of the Acting County Engineer and County Attorney, to provide a briefing on all outstanding roadway dedications in the County, and the County’s plan to resolve these dedication issues,”

Councilmember Kualii moved for approval of the report, seconded by Councilmember Kaneshiro, and unanimously carried.

A report (No. CR-PWPR 2016-13) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Received for the Record:

“PWPR 2016-12 Communication (08/08/2016) from Council Chair Rapozo, requesting the presence of the Acting County Engineer and County Attorney, to provide a briefing on the written request from Walton D. Y. Hong, who on behalf of his clients are asking that the County of Kaua‘i begin the acceptance and dedication process for Lot 4, Hanapēpē Valley, Tax Map Key (TMK) 4:1-9-012 por. 042, which is proposed to have been used as a part of Awawa Road for many years,”

Councilmember Kualī‘i moved for approval of the report, seconded by Councilmember Kaneshiro, and unanimously carried.

RESOLUTIONS:

Resolution No. 2016-55 – RESOLUTION RELATING TO INCREASES IN THE LIQUOR LICENSE FEE STRUCTURE: Councilmember Kualī‘i moved for adoption of Resolution No. 2016-55, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Councilmember Hooser.

Councilmember Hooser: I have questions for the Administration.

Council Chair Rapozo: Okay. I will suspend the rules.

Ms. Fountain-Tanigawa: Chair, we also have a registered speaker.

Council Chair Rapozo: Okay.

Councilmember Kagawa: Chair, can we just clarify that this is not related to the Wailua Golf Course Bill, because I do not know if people signed up thinking it was that.

Council Chair Rapozo: No, this is the increase in licensing fees for the liquor establishments. Councilmember Hooser.

Councilmember Hooser: Good afternoon.

There being no objections, the rules were suspended.

GERALD RAPOZO, Director of Liquor Control: Good afternoon.

Councilmember Hooser: This may have some legal questions in it also. Part of it is the process. This proposal was approved by the Liquor Control Commission, right?

Mr. Rapozo: Correct.

Councilmember Hooser: It is now here to be ratified, if you would, or approved by the Council.

Mr. Rapozo: Yes, State law provides that any amendments to the fee structure needs to be approved by the county's legislative body.

Councilmember Hooser: It is possible for the Council to increase them or change other aspects of these fees as well?

Mr. Rapozo: My understanding is that it would have to go through the Liquor Control Commission.

Councilmember Hooser: If we wanted to change something...is it like the Planning Commission where we would introduce something and it goes to the Liquor Control Commission, and then it comes back to us?

Mr. Rapozo: I would think that it is the same process.

Councilmember Hooser: Okay. My memory is usually that we just rubberstamp this and it goes on. We never or rarely...I cannot remember any time we have ever attempted to amend any of these rules.

Mr. Rapozo: This is my first go-around in the whole process.

Councilmember Hooser: So I guess the underlying point, and part of it is for you as the administrator of the program, is to encourage all of us to think about challenging the status quo, if you would. There might be ways that we can raise additional funds for the County to use in other ways, within the law, but maybe outside of the box. For example, it says one hundred fifty dollars (\$150) for the first violation, "The licensee shall pay a penalty of one hundred fifty dollars (\$150) to the department at the time." So could that fee or fine be paid to Life's Choices, for example, or could it be paid in some other program for other purposes?

Mr. Rapozo: I would say no. These fees are used for specific purposes. So in this case, all of the fines go into separate accounts. The fee

account or the moneys from the penalties, the fines, can only be used for specific reasons. It can be used for education of the licensees, the Liquor Department employees, and commissioners. Ten percent (10%) of the accumulated fines can be used for public education purposes.

Councilmember Hooser: I do not mean to interject, but I wanted to catch that thought. So ten percent (10%) of the fines can be used for public education?

Mr. Rapozo: Correct. That is under the State law.

Councilmember Hooser: Okay. Does the County control that public education?

Mr. Rapozo: It would be the Liquor Department, yes.

Councilmember Hooser: Okay. So the Liquor Department could use that ten percent (10%) to promote addiction services, hotlines, or "do not drink and drive," and that kind of thing?

Mr. Rapozo: Yes, we have to make sure it is within public education, liquor-wise.

Councilmember Hooser: I think you were here when we talked about the drug treatment facility.

Mr. Rapozo: I was watching.

Councilmember Hooser: Okay. Addiction is a terrible problem; we all know that. Alcohol addiction and drug addiction are linked, I believe, and so I am looking and I would encourage the Department and the Commission to look at ways to leverage the money appropriately to enhance and expand education for addiction, treatment services, resources, and that type of the thing. That is where I am going with this conversation.

Mr. Rapozo: I know there are conversations going on right now on the legislative side, to increase maybe the liquor taxes and appropriate those funds for treatment, prevention, and education. That would be the better place to do it on the State side.

Councilmember Hooser: I understand that, but I am kind of looking at what we can do without the State. How much does the ten percent (10%) equate to in a year about?

Mr. Rapozo: It depends.

Councilmember Hooser: Is it one thousand dollars (\$1,000)? Ten thousand dollars (\$10,000)?

Mr. Rapozo: It depends on the type of violations. It could be anywhere between five thousand dollars (\$5,000) and ten thousand dollars (\$10,000).

Councilmember Hooser: A year?

Mr. Rapozo: Maybe even more.

Councilmember Hooser: So that is what the Kaua'i County Liquor Control Commission has to spend on education?

Mr. Rapozo: Yes. When you look at the statute, it says "fines accumulated." So say there is one hundred fifty thousand dollars (\$150,000) in the fine account; I guess we would be able to use ten percent (10%) of that.

Councilmember Hooser: I notice that we regulate...if I could just ask a little more questions...the requirements for doing a liquor license or serving and selling liquor covers a lot of things, like how clean the bathroom is and the serving size and portions. It also covers things like advertisements, posters, and signs.

Mr. Rapozo: Correct.

Councilmember Hooser: Could we require these facilities that if you want a license, you have to post signs informing people of services, warnings, and that kind of thing, within this body of rules?

Mr. Rapozo: It could. Currently, the State law, they require Driving Under the Influence (DUI) posters. I know that the Honolulu Liquor Commission has requirements for added signage.

Councilmember Hooser: So the Honolulu Liquor Commission did expand that?

Mr. Rapozo: Yes, it is possible.

Councilmember Hooser: Okay. When this came on the agenda, it just made me think the tie-in between this money, these services, these permits, and the drug treatment facility and addiction.

Mr. Rapozo: We are open to suggestions, so we can sit down and discuss it. These rule amendments were something that was ongoing for years. Although this one is going through now, I am already working on other rule amendments, too.

Councilmember Hooser: Good. Thank you very much.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: I have a question. Hi, Gerald.

Mr. Rapozo: Hi.

Councilmember Yukimura: You folks had a public hearing when it was at the level of the Liquor Control Commission, right?

Mr. Rapozo: Correct.

Councilmember Yukimura: Was there a lot of testimony?

Mr. Rapozo: None.

Councilmember Yukimura: Okay. One option for us since we are ratifying, or we are being called to ratify, the fee increases is to have a public hearing. But if you already had one and there was not a whole lot of testimony, then I can see that it is probably not necessary.

Mr. Rapozo: If I can clarify, too. The fee increases were not really fee increases. We had to come up with new license fees for new licenses classes that the legislature passed. The only real increase was the waiver amount, the one hundred fifty dollars (\$150) that you talked about. Certain violations, it is pretty much minor violations or paper violations where they can waive their hearing and they just pay what used to be a fifty dollar (\$50) fine. The Commission felt that the fifty dollar (\$50) fine was not worth the time and effort from the investigations and everything. So the fees that were added were to the new classes of licenses, like for winery class. There is a new small producer pub license. So there were no increases to the actual fees.

Councilmember Yukimura: Okay. Thank you for that explanation.

Council Chair Rapozo: Thank you. Any other questions? If not, thank you very much.

Mr. Rapozo: Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I see some categories that look like are new, such as condominium/hotel winery small produced pub. Is that new?

Mr. Rapozo: Over the years, the legislature came up with these new classes of licenses, so we had to adjust those in our rule changes to get it up to speed.

Councilmember Kagawa: So we are kind of consistent with the other islands?

Mr. Rapozo: Correct.

Councilmember Kagawa: Okay. Thank you.

Council Chair Rapozo: Any more questions? If not, thank you very much. Any public testimony?

Ms. Fountain-Tanigawa: Chair, we have one (1) registered speaker, Matt Bernabe.

Council Chair Rapozo: Matt, you may come up. Matt said he signed up for the wrong one. Next speaker.

(Councilmember Yukimura was noted as excused at 12:15 p.m.)

Mr. Rosa: For the record, Joe Rosa. I wanted to really know what happened to the law on the books of the Liquor Control Commission...I always hear that juveniles were provided alcohol by adults or somehow they got the alcohol and they got into an accident where somebody bought liquor for juveniles. I know there is a law that the person who is involved, who bought the liquor would have to pay a fine and even a jail sentence. I do not hear anything about it. I see accidents where juveniles say the liquor was provided by adults. I do not hear of any adults going to court, being fined, and sentenced for what they did for contributing to juvenile delinquency by buying the liquor for those juveniles. I checked the Liquor Control Commission rules and I think it is in the books yet,

because I know, (inaudible), bless his soul because he is gone, but he used to sit outside here in the County parking lot watching the old Hale Pumehana liquor store to see the adults and the kids coming in and out of there. If any establishment is caught selling liquor to minors, they close down for thirty (30) days and that is a lot of revenue that they lose. So they should look into it and publishing it in the papers. Maybe it will slow down adults buying liquor for the juveniles. Those are rules that are in the books yet, but probably are not being enforced because I do not read about anybody getting fined for selling liquor or buying liquor for minors. I think the Liquor Commission should look into that and publish all the ones that are contributing to the problem of juvenile drinking. Maybe we would have fewer alcoholics on the road. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, we will call the meeting back to order.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Mr. Rosa, they do conduct many operations throughout the island and the fact that you do not read about it in the paper does not mean that it is not happening. Typically what happens is the Police Department is called and the subjects are arrested and prosecuted. I would assume it is probably in the police blotter in *The Garden Island*. Any further discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-55 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR ADOPTION: | Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Rapozo | TOTAL – 6, |
| AGAINST ADOPTION: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Yukimura | TOTAL – 1, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Council Chair Rapozo: Councilmember Yukimura had to step out. I did see the excuse memorandum, so she will be back after lunch. Having said that, I would ask that we defer Resolution No. 2016-56 until after lunch. Can we go to the Bills for First Reading, please?

There being no objections, Proposed Draft Bill (No. 2634) was taken out of order.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2634) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, TO ALLOW MULTIPLE FAMILY DWELLING UNITS IN ALL RESIDENTIAL ZONING DISTRICTS (*Kaua'i County Council, Applicant*): Councilmember Kuali'i moved for passage of Proposed Draft Bill (No. 2634) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 5, 2016, and referred to the Planning Committee, seconded by Councilmember Kagawa.

Council Chair Rapozo: Thank you. Councilmember Kaneshiro.

Councilmember Kaneshiro: Council Chair, I have a housekeeping amendment. It was a suggestion that came out of the Planning Committee Meeting and it is basically just an additional elimination to some redundant information. It is a section that refers to another section that we are deleting for this amendment.

Councilmember Kaneshiro moved to amend Proposed Draft Bill (No. 2634) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kuali'i, and carried by a vote of 6:0:1 (*Councilmember Yukimura was excused*).

Council Chair Rapozo: Motion carried. We are back to the main motion. Any further discussion? We had a lot of discussion earlier today. Any further discussion?

Councilmember Kagawa: I just wanted Ka'aina to give a quick overview.

Council Chair Rapozo: Okay. I will suspend the rules.

There being no objections, the rules were suspended.

Councilmember Kagawa: So it passed the Planning Commission with a unanimous, 5:0 vote. Ka'aina, in a nutshell, what does this Bill do for the people of Kaua'i? What are some of the pros and what are some of the cons?

KA'AINA HULL, Deputy Planning Director: Ka'aina Hull, Deputy Planning Director for the Planning Department. Thank you, Councilmember Kagawa. The Bill is very simple. There currently is in this zoning ordinance, a prohibition on constructing multi-family dwelling units in the R-1 through R-6 Residential zoning districts. That is not to say that properties in the R-1 to R-6 zoning districts cannot build multiple units, but under the definition of the Kaua'i

County Code, a multiple dwelling family unit is when you build two (2) or more units connected to each other, i.e., they share the same wall or they share the same roof. They could even be duplex type of construction where they share the same wall or they could be the upstairs/downstairs situation where it is two (2) or more. It just strictly prohibits the construction of these units connected together. You have multiple properties in those zoning districts that can construct two (2), three (3), or four (4); sometimes five (5) or six (6) dwellings, but the prohibition requires that they be separate units. When they are required to be separate units, there are some cost barriers. It could be a bit more costly just for construction costs. So by allowing them to construct together, you can reduce construction costs, as well as some infrastructure costs such as the Department of Water's Facilities Reserve Charge (FRC), which currently for a single-family, standalone units costs about fifteen thousand dollars (\$15,000), just for that FRC. Just if they are connected, that FRC is reduced to nine thousand eight hundred dollars (\$9,800). If you are in the R-1 to R-6 district and you build more than one (1) unit, by the prohibition alone, the multi-family units in those districts, they cannot take advantage of those various reductions in cost. The proposal is just to allow multi-family unit construction in the R-1 through R-6 zoning district. There has been some speculation publicly that it is going to increase density. In no way, shape, or form does this Bill propose to increase density. If your property is afforded the right to build two (2) units, all it says is that you can build them together. If your property can only build three (3) units, it still maintains that three (3) units. It is just that you now have the opportunity to build the structures under a single roof, so to speak. It is relatively simply. The Planning Department and the Planning Commission have come out in support of the bill. It is a way to reduce costs for construction of these units and hopefully increase the inventory of housing on the island.

Councilmember Kagawa: So going back to your initial definition, so sharing a wall or roof; not sharing a wall and roof?

Mr. Hull: It could be and roof as well.

Councilmember Kagawa: So it can be sharing a wall and/or roof. That is considered a multi-family dwelling.

Mr. Hull: Correct.

Councilmember Kagawa: What size of properties are we talking about? For example, R-6? We have another bill that proposes to allow Affordable Rental Units (ARUs) on properties from...it was ten thousand (10,000) before, but going down to five thousand (5,000) square feet. What size of properties would be the smallest ones in the R-6 that would allow a multi-family dwelling now?

Mr. Hull: You just have to look for any property in the R-6 district that you can build more than one (1) unit on.

Councilmember Kagawa: So that would be ten thousand (10,000), right?

Mr. Hull: About ten thousand (10,000) square feet, roughly.

Councilmember Kagawa: Ten thousand (10,000) square feet. So this does not really relate to the ARU Bill because the ARU Bill deals with square footage.

Mr. Hull: Correct. This is just looking solely at...

Councilmember Kagawa: What type of building you could construct?

Mr. Hull: Correct.

Councilmember Kagawa: So instead of building a separate unit and infringe upon maybe going over the fifty percent (50%) lot coverage, one would be able to maybe attach it to the house and that way they would not go over the fifty percent (50%) lot coverage?

Mr. Hull: There are some situations in which not only lot coverage, but setbacks do operate as a barrier. Currently, the way that property owners have to get around that is they have to shrink their house or redesign the house around those setbacks or lot coverages. This would be one tool that would help alleviate that burden, I will say.

Councilmember Kagawa: Ka'āina, you folks work with the permitting and work with the public on a daily basis on how they can work and try and get more dwellings on their property, so do you expect a large number of people to be coming forward if this Bill passes? By large, I mean more than ten (10)? In Honolulu, they passed the ARU and I think Council Chair Rapozo did a checkup and there was only one (1) that did it in a year and a half or whatever.

Mr. Hull: It is really hard, Councilmember, to anticipate that. If we got more than ten (10) then that would be a success. The thing with zoning is that zoning is an entitlement and opportunity for someone to construct. It is not necessarily an incentive or a stick that cajoles a property owner to constructing something. It is just an avenue that should the property owner

decide to take advantage, then it is there. Right now, property owners do not have the opportunity to take advantage of shared wall construction. Whether or not that will lead some folks to build, I can only hope so. We just have no way of anticipating how many people would do the cost-benefit analysis and say, "Right now, I am not constructing because it is just a little bit too expensive." This should save in the magnitude of five (5) digits when constructing. Whether or not that is enough for a property owner to finally pull the trigger and say, "I am going to construct"—we cannot anticipate that. I apologize.

Councilmember Kagawa: I just have one last question. Do any of the other islands have this type of language in their...

Mr. Hull: I will have to double-check because on some of the other islands, zoning is a bit different than ours. I will have to double-check to see if there are specific prohibitions in certain zones.

Councilmember Kagawa: I guess I am talking mainly about Hawai'i island and Maui.

Mr. Hull: I do not know that off the top of my head, but I can double-check.

Councilmember Kagawa: Yes, if you can check if they allow multi-family dwellings on R-1 through R-6. Thank you.

Council Chair Rapozo: I know we have a member in the audience that cannot come back after lunch, so we will get to you. If the rest can be back after lunch, then we will take your testimony after that. Councilmember Chock.

Councilmember Chock: To your knowledge, when we talk about Covenants, Conditions, and Restrictions (CC&Rs), is this a limiting factor in this as far as you know for having duplexes? Is that going to be a barrier for homeowners?

Mr. Hull: That could potentially be a barrier if there is a specific CC&R that does allow for multi-family dwelling units. But that is not to say that this would override the CC&R. At the end of the day, the CC&R is a private covenant between an individual property owner and his association or surrounding property owners. If this got passed and say there was a neighborhood or area that has a CC&R that prohibits it, that CC&R would hold. I will also state that, that CC&R would also have to be enforced by the respective association that the Planning Department would enforce or act upon that CC&R.

Councilmember Chock: Right. Okay. Thank you.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: You just said the word. As far as the multi-family units and as long as they already have the zoning entitlement, then in essence, this would allow them to do duplex, triplex, and even four-plex?

Mr. Hull: If they had the appropriate density already allocated.

Councilmember Kualii: Thank you.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: So if it is R-4 and they have an acre of land, they could build a four-plex?

Mr. Hull: Correct.

Councilmember Hooser: Okay. Even if that acre of land was in the middle of a subdivision or adjacent to a subdivision that just has single-family homes in it?

Mr. Hull: Correct.

Councilmember Hooser: Okay. Correct me if I am wrong, but people can do it now with the use permit.

Mr. Hull: They can only do it with a use permit for those lots that were created prior to 1980. Any lot...

Councilmember Hooser: Prior to when?

Mr. Hull: Prior to 1980. Any lot created subsequent to 1980 in the R-1 to R-6 district, there is no provision, use permit, or otherwise that allows them to have shared roof construction essentially.

Councilmember Hooser: Okay. Provisions for parking and all of that, what happens?

Mr. Hull: It still stands in place. Every single dwelling unit still requires the appropriate amount of parking, which are two (2) parking stalls. They would still have to meet setbacks and the height.

Councilmember Hooser: I mentioned this earlier, but just thinking about where I live and the street, a lot of the homes, probably every lot on the street is allowed an ADU, but many of them, the houses are situated so there are all of the empty lands in the back and there is no way to get there. So these folks could all create, in theory, a duplex? If it is a single-family home, ten thousand (10,000) square foot lot, they could go up or share a wall on the existing home and create a duplex. Is that correct?

Mr. Hull: Under this Bill or under the current zoning ordinance.

Councilmember Hooser: Either one.

Mr. Hull: They could do that today.

Councilmember Hooser: With a shared wall or a shared roof?

Mr. Hull: Correct. The only provision that allows for shared wall construction in the R-1/R-6 district is if it is for an ADU, because the ADU law statutorily was constructed and the way it was drafted overrode the prohibition on multi-family construction R-1 through R-6. Today, if you have a property that qualifies for only one (1) dwelling unit, it is real important to know about ADUs. Everybody thinks that everybody can build an ADU. An ADU technically only applies to those properties that can only construct one (1) dwelling. If you have a R-1 zoning designation that is one (1) house per acre and you have one (1) acre in size, you can construct that one (1) house, and the ADU provision allows you to construct an additional dwelling unit. But it only applies, like I said, to properties that can only construct one (1). If you have a R-1 zoning designation and you have two (2) acres, you can therefore construct two (2) dwelling units. They do not qualify for the ADU. The economy situation we are in is that if you are the one (1) acre and you can build an ADU, you can have shared wall construction. If you are two (2) acres, same zoning, but because you are two (2) acres and you qualify for a second dwelling unit, that has to be separate detached dwelling units.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Ka'āina, we are going to ask you to come back after lunch. I do want to get some public testimony in before we break for lunch because we do have a public hearing at 1:30 p.m., so we are trying to move this thing along. Do we have any registered speakers?

Ms. Fountain-Tanigawa:
this item, Chad Deal.

Chair, we have one (1) registered speaker for

Council Chair Rapozo:

Thank you for your patience, Mr. Deal.

CHAD DEAL:

Chair and Councilmembers. *Aloha*. I am Chad Deal and I am submitting testimony today on behalf of the Kaua'i Board of Realtors (KBR) and member of the Government Affairs Committee for Kaua'i. We are the voice of real estate on Kaua'i and represent five hundred fifty (550) members. The Kaua'i Board of Realtors supports the intent of Proposed Draft Bill (No. 2634), which allows for the construction of multiple family dwelling units in all residential zoning districts. Whereas KBR realizes the shortage of housing in general throughout Kaua'i, accordingly the Kaua'i Board of Realtors supports additional multi-family units, as stated within Proposed Draft Bill (No. 2634) as a reasonable means of encouraging house construction island-wide. Thank you very much for the opportunity to testify.

Council Chair Rapozo:

Thank you very much. How many of you are wishing to testify on this matter? Okay, we are going to have to break for lunch right now. It is 12:35 p.m. Please be back by 1:35 p.m., one (1) hour, and then we will go straight into the public hearing. For the public, we have a public hearing at 1:30 p.m., and then we have interviews in Executive Session at 2:00 p.m., and that is probably going to run at least one (1) hour or so. I know we had an E-mail from a constituent, asking us about what is going on with the auditor situation that just came in a little while ago. So for that person who is watching, the interviews today are of two (2) potential candidates for the auditor's position. That is being done today. They are on the mainland. You can come back and hang around. I do not anticipate us getting out of there until at least 3:00 p.m., possibly 3:30 p.m. We will have the public hearing at 1:35 p.m.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

There being no objections, the meeting recessed at 12:35 p.m.

The meeting was called back to order at 1:47 p.m., and proceeded as follows:

(Councilmember Yukimura was noted as present.)

Council Chair Rapozo: We are on Proposed Draft Bill (No. 2634). The motion was to approve and set for a public hearing. Is there any further discussion? I know we had public testimony. Anne, did you still want to testify on this matter? Okay, I will suspend the rules.

There being no objections, the rules were suspended.

Ms. Punohu: *Aloha.* Anne Punohu. I had several suggestions that I thought about during lunch. I think you all know my opinion. My opinion is really strong on this issue. I feel that before you presented this to the general public, I think that you should decide who exactly you are targeting and what income level you are targeting for this type of housing offering. What I mean is do you really want to let somebody...do you want to cap it at eighty percent (80%)? Eighty percent (80%) will not help anybody. If you cap it at sixty percent (60%), that takes care of your demographic and gives us an opportunity to get some of these rents a little bit more reasonable. My other opinion is that the general public should know who it is targeting first. Everyone is just going to rush in and go crazy and think it is for them. The renters are going to go, "I still cannot afford it." My other issue is that there should be more breaks for lower-income families. Like you have a home, like a little Hanamā'ulu aunty and uncle, they have this house and they are trying to help out by renting the rooms for four hundred dollars (\$400) a month. Now, they need to do these improvements, especially on the sewer and water, and it is very expensive to get that done and this has to be done in order to comply. Could we look at income levels to give these people a break? Other than that, it will not help these people to get their place in tip top shape so that they can rent it out at the same rate. All it will do is help people who already have money to get a better break still and they will still charge at the eighty percent (80%) median income, which will keep it out of the hands of the very people it is keeping the hands of right now. When you look on Craigslist, that is what the market can afford. When you go to the Department and Housing and Urban Development (HUD) and look at their standards of how they do their median income, it is a lot higher. When you get a HUD voucher now, I think it is up to one thousand eight hundred dollars (\$1,800) or something, because that is what the market is charging. When you go on Craigslist, what the market wants is five (5), six (6), and seven (7). I know what you folks are trying to do. Let us do it right. Let us not do something that you think is going to be great, and then in the end it is not going to serve one (1) person that you wanted to in that demographic. *Mahalo.*

(Councilmember Yukimura is noted as not present.)

Council Chair Rapozo: Thank you. Anyone else wishing to testify? If not, I will call the meeting back to order. The motion is to approve and schedule a public hearing for October 5th. Any further discussion? Councilmember Kaneshiro.

There being no further public testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kaneshiro: One thing that came to light through this process is that I know this Bill is island-wide, but the north shore has a special planning area that prohibits multi-family units in their plan, so it would prevent them from doing a multi-family on the north shore and I think they would need to change their plan in order to allow it. Other than that, it is pretty straightforward as far as not increasing density and just allowing flexibility for a homeowner to be able to either build two (2) units together, rather than two (2) separate units.

Council Chair Rapozo: Okay. We will have much more discussion.
Councilmember Kagawa.

Councilmember Kagawa: Just for the committee meeting after the public hearing, I would like the Planning Department to respond to the question I had about whether Hawai'i island or Maui has similar legislation, and if so, what kind of feedback has it gotten in the number of complaints or what have you from residents there? Has the bill been received in good standing or has it actually caused a lot of complaints with people as far as the changes that it has allowed. I would like to get that response ready by the committee meeting. Thank you.

Council Chair Rapozo: Thank you. Any further discussion?
Councilmember Hooser.

Councilmember Hooser: I just have a quick question and the introducer might be able to answer it and I think I asked the question the last time, but earlier the Planning Department said that if it was R-4 and if it was an acre then that would allow them to build a four-plex. So if it was ten (10) acres, could they build forty (40) multi-family units connected?

Councilmember Kaneshiro: I think I would rather let the Planning Department answer that.

Council Chair Rapozo: We can do that offline. What he said was if you had a house with an entitlement to build one (1) unit, you would qualify. If you had multiple units authorized, then you would not qualify. So if you had two (2) acres...

Councilmember Hooser: If we could just have the Planning Department up real quick, because I believe he also said...

Council Chair Rapozo: We have an interview at 2:00 p.m. I am not meaning to rush anybody. We can come back after the interviews and finish this up, but we are on a time schedule with someone from the mainland, so we want to make sure that we can get in there and do that interview.

Councilmember Hooser: Okay.

Council Chair Rapozo: With that, the rules are suspended.

There being no objections, the rules were suspended.

Councilmember Hooser: I believe you said if it was R-4 and an acre that this would allow a four-plex to be built. So if it was ten (10) acres, could a forty (40) unit building be constructed?

Mr. Hull: Theoretically, but I would not anticipate that happening, given the fact that there are not many acreages that size in nature. But theoretically, yes.

Councilmember Hooser: We can talk more about it later. There are hundreds of acres zoned R-4 or R-6 and could immediately put those into multi-family zoning if they wanted to.

Mr. Hull: To a certain degree...no...yes...

Councilmember Hooser: We could explore this further. Thank you.

Council Chair Rapozo: That does shed a different light, because theoretically they can, so guess what? They can. The real question is do we have ten (10) acre parcels of land on Kaua'i that are R-4 zoned in one area where you could put a nice mini resort. With that, roll call.

The motion for passage of Proposed Draft Bill (No. 2634) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 5, 2016, and referred to the Planning Committee was then put, and carried by the following vote:

| | | |
|-----------------------|--|-------------|
| FOR PASSAGE: | Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo | TOTAL – 7*, |
| AGAINST PASSAGE: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Yukimura was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)*

Council Chair Rapozo: We have Proposed Draft Bill (No. 2637) and Proposed Draft Bill (No. 2638). Are you folks anticipating discussion? We have discussed that to death earlier today. It is first reading bills. Can we get through that in the next minute or so? Please read Proposed Draft Bill (No. 2637).

(Councilmember Kaneshiro is noted as recused.)

Proposed Draft Bill (No. 2637) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-812, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of Economic Development, Grant In Aid (Special Events Security) – \$53,773.00*): Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2637) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 5, 2016, and referred to the Budget & Finance Committee, seconded by Councilmember Kagawa.

Council Chair Rapozo: I believe there is an amendment.

Councilmember Kualii moved to amend Proposed Draft Bill (No. 2637) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, seconded by Councilmember Kagawa.

Councilmember Kualii: This is from staff and the Office of Economic Development making a couple of corrections. One correction is the account number on the left side of “Grant-In-Aid,” and then the other correction is to remove three (3) items, which should not be included or deleted: “Kauai Hospice, Kekaha Fourth of July, and Pilgrimage of Compassion.” So then the amount of fifty-three thousand seven hundred seventy-three dollars (\$53,773) is reduced to forty-three thousand four hundred seventy-three dollars (\$43,473).

Ms. Fountain-Tanigawa: Chair, I wanted to also clarify that the public hearing date for Proposed Draft Bill (No. 2637) is October 5th. I think October 10th was the stated date.

Council Chair Rapozo: So noted. The public hearing will be on October 5th. Any further discussion?

The motion to amend Proposed Draft Bill (No. 2637) as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2 was then put, and carried by a vote of 6*:0:0:1 (**Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauai, Councilmember Yukimura*

was silent (not present), but shall be recorded as an affirmative vote for the motion; Councilmember Kaneshiro was recused).

Council Chair Rapozo: We are back on the main motion. Is there anyone in the audience wishing to testify? Seeing none, roll call.

The motion for passage of Proposed Draft Bill (No. 2637), as amended, on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 5, 2016, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

| | | |
|-----------------------|--|-------------|
| FOR PASSAGE: | Chock, Hooser, Kagawa, Kualii, Yukimura | TOTAL – 5*, |
| AGAINST PASSAGE: | Rapozo | TOTAL – 1, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | Kaneshiro | TOTAL – 1. |

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Yukimura was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)*

Council Chair Rapozo: Thank you. Next item.

Proposed Draft Bill (No. 2638) – A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC: Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2638) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 5, 2016, and referred to the Budget & Finance Committee, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion? Public testimony? Seeing none, roll call.

The motion for passage of Proposed Draft Bill (No. 2638) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 5, 2016, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

| | | |
|-----------------------|--|-------------|
| FOR PASSAGE: | Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo | TOTAL – 7*, |
| AGAINST PASSAGE: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmembers Kaneshiro and Yukimura were noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)*

Council Chair Rapozo: Motion carries. Can you read the Executive Session items, please?

EXECUTIVE SESSION:

ES-867 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide Council with a briefing and request authority for a possible settlement proposal in a claim filed by Geico Insurance, as subrogee for Jenica Springer and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

(Councilmember Kaneshiro is noted as present.)

ES-868 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(E) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on Special Counsel services to represent the County of Kaua'i Housing Agency before the State Land Use Commission in order to file a 201H-38 Petition for the Lima Ola Workforce Housing Project (Resolution No. 2016-53), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Council Chair Rapozo: Since this Executive Session is no longer needed, can we have a motion to receive ES-868?

Councilmember Kaneshiro moved to receive ES-868 for the record, seconded by Councilmember Kuali'i, and carried by a vote of 6*:0:0:1 *(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i,*

Councilmember Yukimura was silent (not present), but shall be recorded as an affirmative vote for the motion).

Council Chair Rapozo: Thank you.

ES-869 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2), (4), and (8), the purpose of this Executive Session is to consider matters that require confidentiality under state law, to wit, the hiring of a County Auditor, including interviewing any candidates, and terms and conditions of employment. The further purpose of this Executive Session is to meet with the Council's legal counsel on questions and issues relating to the Council's powers, duties, privileges and immunities and/or liabilities, claims and/or potential claims, as such powers, duties, privileges and immunities, and/or liabilities, claims and or potential claims relate to the foregoing item, and to take such action as the Council deems appropriate.

ES-870 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing on County of Kaua'i vs. Hanalei River Holdings, Ltd., Civil No. 11-1-0098 JRV (Condemnation), Fifth Circuit Court, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-871 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, requests an Executive Session with the Council, to provide the Council with a briefing and request for authority to settle the case of Carl A. Ragasa vs. County of Kaua'i, et al., Civil No. CV14-00309 DKW BMK (United States District Court for the District of Hawai'i) and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-867, ES-869, ES-870, and ES-871, seconded by Councilmember Kualii, and carried by the following vote:

| | | |
|----------------------------|---|-------------|
| FOR EXECUTIVE SESSION: | Chock, Hooser, Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo | TOTAL – 7*, |
| AGAINST EXECUTIVE SESSION: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Yukimura was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)*

Council Chair Rapozo: With that, we will recess this segment. We are going to have to come out and vote. I am looking at our schedule and 2:00 p.m. is our first interview and 3:30 p.m. is the second one. I am thinking that we will reconvene at probably 4:30 p.m. or 5:00 p.m. Councilmember Kagawa.

Councilmember Kagawa: Is there any possibility that the item...well, the item that we have left, if we could cover it in between 2:00 p.m. and 3:30 p.m. I do not anticipate being in the interview for one (1) hour, but if it does then we will stick to your schedule. However, I do not want to waste time and put our staff on overtime if we can avoid it.

Council Chair Rapozo: I agree. If we can get through the interview in half an hour or forty-five (45) minutes, it gives us some time to come back into open session and take up those items.

Councilmember Kagawa: Maybe we want to keep B.C. on call then?

Council Chair Rapozo: Yes. Thank you. We are going to take a recess.

There being no objections, the meeting recessed at 2:03 p.m.

The meeting reconvened at 4:45 p.m., and proceeded as follows:

(Councilmember Yukimura was noted as present.)

Council Chair Rapozo: Can you read us C 2016-195?

C 2016-195 Communication (08/24/2016) from the County Attorney, requesting authorization to expend funds up to \$20,000.00 for Special Counsel's continued services provided in County of Kaua'i vs. Hanalei River Holdings, Ltd., et al., Civil No. 11-1-0098 JRV (Condemnation), Fifth Circuit Court, and related matters: Councilmember Kuali'i moved to approve C 2016-195, seconded by Councilmember Yukimura.

Council Chair Rapozo: I do want to make a note of Councilmember Kagawa's request to have a letter sent over to the Department of Parks & Recreation and whoever, and in fact maybe even...I will leave it up to the Public

Works / Parks & Recreation Committee Chair Kagawa if he wants it on the agenda to have an update of what is going on down there.

Councilmember Kagawa: When I get the response, I will see.

Council Chair Rapozo: If there is no further discussion, roll call.

The motion to approve C 2016-195 was then put, and carried by the following vote:

| | | |
|-----------------------|---|------------|
| FOR APPROVAL: | Chock, Hooser, Kaneshiro, Kualii, Yukimura, Rapozo | TOTAL – 6, |
| AGAINST APPROVAL: | Kagawa | TOTAL – 1, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Ms. Fountain-Tanigawa: That brings us to page 5,
Resolution No. 2016-56.

RESOLUTIONS:

Resolution No. 2016-56 – RESOLUTION AMENDING
RESOLUTION NO. 2015-02, DRAFT 1, AND RESOLUTION NO. 2015-62,
RELATING TO THE RULES OF THE COUNCIL OF THE COUNTY OF KAUAI
FOR THE ORGANIZATION OF COMMITTEES AND THE TRANSACTION OF
BUSINESS: Councilmember Yukimura moved that Resolution No. 2016-56 be
ordered to print, that a public hearing thereon be scheduled for October 5, 2016, and
referred to the October 19, 2016 Council Meeting, seconded by Councilmember
Hooser.

Council Chair Rapozo: Discussion? Councilmember Yukimura.

Councilmember Yukimura: Chair, I want to say that this is no reflection
on your conducting of business because it is just asking for a restoration of a rule
that was in place until there was a question about a Sunshine Law violation. We
cleared that up and there is no Sunshine Law violation, as indicated by the OIP
opinion. It makes things more convenient, especially for working people. It gives
notice. I know that Councilmember Chock suggested something up on the door, but
in fact, a rule is the best way to give notice that there is this way for people to
testify at the beginning of a meeting. In fact, people have told me that it is hard for
them to get people out on particular issues because they just do not know when the
issue is coming up. They have work and they cannot take off for the whole day.
Rules are to create order and they are to give notice. That is what this rule would

do, I think, for a process that worked well. If we think that there is going to be more than six (6) speakers, we can increase the time to twenty-one (21) minutes or even a whole hour, if we want to. I think it is a very good way to function. It is not about a bill with a lot of people who want to testify. I believe, whether it is Bill No. 2491 or bills on ADUs or things like that, we can schedule them, which we have a formal request process. But for individuals who want to come and testify, I think this would be a good thing to have. It will improve process and make government more accessible. If we say there is no need for it or we have not heard anything, a public hearing would allow for that to see really what the interest and concerns are out there.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: Chair, I stated earlier that I have not had any issues with the current rule. In fact, I think what I have seen is that whoever is chairing the meeting to be accommodating, as much as possible to potential speakers or testifiers, particularly if they have some time constraints. While I think we can always improve, and I am an advocate of continuous improvement, from my perspective, I just have not seen it fail. With that being said, I think the approach that I am taking here is to be as objective as possible to the introducer's request. If Councilmember Yukimura is hearing and has some feedback from the community that there is an issue, then I am more inclined to listen to a public hearing, if that is the direction of this existing motion. I was prepared to not support it. If it means going to a public hearing for the sake of listening and getting more information, I am supportive of that at this time.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I am not going to support this Resolution. I think the timing...we are two (2) months away from finding out who will be on the next Council, the top vote-getter looks like a shoe-in for Council. So the makeup for the Council will be different, I think. The changes that were made with the last election that we did led to more efficient meetings, led to more order, and led to more following of a process to prevent unnecessary discussions taking place when questions and answers should be taking place. I think those successes have reduced overtime with our staff, and I think it is unnecessary overtime. I think the changes that we made were successful and are successful. I have heard no complaints about the current process. I have heard a lot of praise about the current process. Therefore, I do not find any reason why we should change it at this time. I think in two (2) months if there is a new Councilmember or an old Councilmember that feels that after the election that this would be a good rule to put back in, then I think that would be the appropriate time. Therefore, I will not be supporting this. Thank you.

Council Chair Rapozo:

Councilmember Kaneshiro.

Councilmember Kaneshiro: I, too, will not be supporting it. As I mentioned earlier, I have not heard of anyone that had a problem with it. We did get one (1) testimony from Glenn Mickens, but even he did not seem okay with it because he still wanted his six (6) minutes when the rules says only three (3) minutes, and if he had six (6) minutes then that is only three (3) people that could talk, rather than six (6). I think the Council has been very accommodating. We even had it today where people were speaking on the Consent Calendar if they could not stick around. I am fine with the rules now. We even had times where we have tried to accommodate people and we have set agenda items at a certain time, and still nobody even showed up for it. Because they wanted it at that time, that is when they could come, we set it, and nobody came and testified. Again, there are many ways to testify. It is not only coming up here and testifying. You can write it or you could call us. Again, there are four (4) chances to testify. There is the first reading, a public hearing, a committee meeting, and there is a council meeting. I think there is a lot of opportunity for it. I think that it is fine the way it is, so I will not be voting for it.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: I agree with the comments of Vice Chair Kagawa and Councilmember Kaneshiro and I also cannot support this. Actually, I think we found out today that there are actually five (5) chances to testify, because it was very odd to hear so much testimony on traffic congestion when we did not even have a traffic congestion item on the agenda. What we did have was under "Committee Reports" a Public Works / Parks & Recreation Committee, PWPR 2016-11, and once one (1) person got to come up and talk about it, everybody decided, too, and they even did for a second time. Really, all we were approving was minutes. There is a balance to being effective at doing our work and giving people the appropriate time and ability. The three (3) minutes has been always granted to allow the second three (3) minutes. The rules say three (3) minutes and the Chair may grant the second three (3) minutes, and that has always been done as well. I have not heard from anyone. I think in the future when you are trying to make a change and you say it is because you have been hearing, you should get those people to send in their E-mail to all seven (7) Councilmembers so that we can hear initially from at least a handful of people that there is even a problem so that we can maybe go further to try and hear from more people. No one really showed up today, specifically for this matter. They knew it was on the agenda. Yes, we heard from Mr. Mickens. We will always hear from Mr. Mickens. Thank you.

Council Chair Rapozo:

Anyone else? Go ahead.

Councilmember Chock: Just for clarification, as the discussion about this particular rule came up, I started to think about if someone walks in at 9:30 a.m. or so and says that they have to go to work by 10:00 a.m. and asks for consideration that, that is something within our current rule that will tried to be accommodated. I just wanted to get that clarity.

Council Chair Rapozo: That has actually happened in the past.

Councilmember Chock: Thank you for that. The second thing would be that I do think that the suggestion I had about being able to disclose that in a way for people walking in and showing up to the meetings so that they know that option does exist for them, is something that we might want to or need to consider in the future to improve on the system. Thank you.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: The other thing I would add is that it might be too obvious that people are missing it that everyone always has the option to submit their testimony in writing. If somebody came at the beginning at the day and they came in at 9:30 a.m. and had to leave at 10:00 a.m. and somehow based on the agenda and what was going on and priority of other speakers already signed up or whatever, that if they had the same issue that at a last resort they could submit their testimony to the staff on their way running out the door, so we could always have it in writing.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: There is such a difference between people appearing to testify where others can hear and where the public can hear than just submitting testimony. If it is a pure equivalent, then we should just do away with oral testimony. There is a difference with oral testimony. Now it is not true that people have three (3) times to testify. They only had once to testify on the Kaua'i Veteran's Cemetery renovation, only had once to testify on the Hanalei Special Counsel issue, and they only had one time to testify on this Resolution. If it is an appropriation bill, there is a public hearing or if it is a Planning bill, but it is not always the case that you have more times to testify. If we want to encourage public input, we are trying to make it easy. No matter what we are saying here, not everybody will know that they can come in and ask permission from the Chair to speak early. In having it in a rule, and then to have people asked throughout the meeting to come and testify because they have to leave is really kind of chaotic. So what a rule would do is to give order so that everybody knows, and to give notice because it is in the rules. People can read it and check it and know that it exists. It

is really amazing to me that enabling and making public testimony easier is something that this Council does not want to do.

Council Chair Rapozo: I just want to let you know that, that is your second time, Councilmember Yukimura. If you want to use up the rest of your time, I suggest you do it now while you still have the floor.

Councilmember Yukimura: One of the curses of this two-time rule is that you cannot respond when people raise issues and you cannot have the counterarguments. You cannot even talk for five (5) minutes, necessarily. You do not want to make up time and make up words. You want to respond to the various arguments that are given. So this arbitrary two-time rule is really repressive. It is actually quite "Trump-like."

Council Chair Rapozo: That rule has been in the rules for a long time. That is something that I created. That has been in the rules for a very long time.

Councilmember Yukimura: I do not agree. I do not believe that has been in the rules for a long time. It was created almost two (2) years ago when the rules were proposed by yourself, Chair, at inauguration day.

Council Chair Rapozo: No, that rule was not changed. The two-time rule was always there. I just enforce it and that makes me the bad guy. If your argument is about that then that should have been on the resolution and not this eighteen (18) minute rule. Is that going to be your final time to speak on this Resolution?

Councilmember Yukimura: No, not if there are other arguments and other information that needs to be given. For example, Chair, on the "Barking Dogs" issue, you totally distorted what it meant to have an affirmative defense, and that came after I had spoken twice and it would have left the discussion without a correction of that. I had to speak a third time in order to correct it.

Council Chair Rapozo: We are talking about the eighteen (18) minute rule today. That is what is on the agenda.

Councilmember Yukimura: Yes, but you brought up the two-time rule, Sir.

Council Chair Rapozo: I am giving you an opportunity to use up your time, so I am trying to be generous. But if you want to be done then that is

fine. I am telling you that I will not recognize you for the third time, so I am asking you if you are done.

Councilmember Yukimura: I am sorry, but the two-time rule does not work. You are not being generous at all.

Council Chair Rapozo: Are you done?

Councilmember Yukimura: It depends.

Council Chair Rapozo: Anybody else wishing to testify? If not, Scott, may you please put up the presentation? I have a very quick presentation. It is very simple—why now? We have five (5) council and committee meetings left in this term. Why now? There were no issues during this term. In caps, “ALL REQUESTS FOR ACCOMMODATIONS WERE GRANTED,” and we did that by taking early testimony or moving agenda items to accommodate the public. The meetings have run much more efficiently. We have shortened the meeting time, which reduces staff time and saves money. That is what this has done. We have not taken away a thing from the public, absolutely nothing. Right now, somebody comes in, we do not have eighteen (18) minutes and we do not have to make it twenty-one (21). There is no time limit. If we have six (6) or seven (7) people that have to catch a plane, have to catch a bus, have a meeting, or have to go back to work, they will be accommodated. Under the proposed Resolution, under the proposed rule, eighteen (18) minutes. If we have more, then guess what? We are going to suspend the rules, like what we do now. It is not necessary. Currently, there is no limit on speakers. You could have four (4), five (5), or six (6). Again, there could be a situation where a bunch of school teachers need to get to work, need to get to school, or a bunch of students that need to get to school and they want to testify, you are not going to get many of them in there for eighteen (18) minutes. The proposed Resolution rule change is “first come, first served.” Is that fair in a public arena? “It is first come, first served, ladies and gentlemen. If you do not make it, then tough.” It is just ridiculous. Fair and equitable. The proposed language creates opportunity for people to get left out. I know Councilmember Yukimura said that it is not a reflection in how I have been running the meetings—well, I do take it as a reflection. You are saying that it is not working, so we need to change rules. You do not change rules when things are working. This is how I close: “If it is not broken, do not fix it.” In my opinion, it is not broken. Councilmember Hooser.

Councilmember Hooser: Can you put the slides back up? I do support the motion, and to be clear, the motion simply asks for a public hearing. That is all it does, is ask for a public hearing. If people show up to testify and we hear them, there is no debate. We are not allowed to debate at the public hearing. Remember?

Those are in the rules. It simply asks for a public hearing. If no one shows up, that is the end, we schedule it, and we have this conversation again. In some senses, it is just a courtesy, but it is really not any great consumer of energy for the Council, for the staff, or anybody whatsoever. Can you put the slide up? Can I hold my minutes while I wait for the slide? I want to put my minutes on hold while I wait for the slide.

Council Chair Rapozo: Sure. Which slides do you want up?

Councilmember Hooser: The current and the proposed. I just want to point out, Chair, that I understand the points you are making, but the proposed does not affect the current at all. It only affects people who show up early. The others also have no time limit and they all have no limitation on speakers and they are all fair and equitable. The only limitations are on those first people. We still have the rest of the speakers who could come and talk twice if they want. They can have as many speakers as one could talk during the regular proposal. I said earlier that I support this partly because of certainty, and if it was certain, and it has been by practice, that people can speak early, then I suggest we put that in the rules so people know. I think that would solve the issue. If we always accommodate people, let us pass a rule that people are always accommodated. When people ask, "When is it going to come up," then we can tell them. We could tell them to come early and speak. It is a rule. That is it. I just think that this is a request for a public hearing and I think it is a reasonable request. Thank you.

Councilmember Kagawa: I have a question for Councilmember Hooser.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: When you were in the State Senate, did you folks have a time like this for the public to come up and speak on anything that they wanted to before you folks? I am just wondering if the State had this and we are trying to follow.

Councilmember Hooser: The Chair had discretion. I cannot recall that rule.

Councilmember Kagawa: Okay. I am just checking.

Councilmember Hooser: I am responding to the question. I am not using my three (3) minutes. I see you speaking for the third time.

Councilmember Kagawa: The second time was my question.

Council Chair Rapozo: If you have a question on the testimony, then...

Councilmember Hooser: I think it is irrelevant what the Senate does. We have seven (7) members here and we set our own rules and we want to make it as best we can. I think that is the objective, to make it as best as we can for the public. Thank you.

Council Chair Rapozo: I think made it the best we could when we changed the rule and removed that. That rule was just put in with the former Chair. Councilmember Kaneshiro.

Councilmember Kaneshiro: I am not going to repeat what I said, but again, it is kind of funny that we are here talking about public testimony and allowing people to do it, and we did not get any on this. If people want it changed, but they were not even willing to testify on it...I do not know what to say. I think everything is working fine now. I think that you have ran the meetings very well. Again, people had time to testify. We have done a lot of stuff to accommodate people and it has worked up well up until now and I am happy with the way things have gone. It is what it is. I am ready to vote on it.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: People did not even know that this Bill or Resolution is on the agenda. They only had six (6) days and not everyone knows. The reason why I did not go and call everybody is because I expected that it would be passed without any concerns because it is so reasonable.

Council Chair Rapozo: Okay...

Councilmember Yukimura: There are people who say that they cannot come out because they do not know when the issue is going to come up.

Councilmember Kagawa: May I respond?

Council Chair Rapozo: You know...

Councilmember Kagawa: There was an article in the newspaper yesterday, front page, saying that this item was going to be discussed.

Council Chair Rapozo: Exactly.

Councilmember Yukimura: Not everybody...

Councilmember Kagawa: Nobody reads *The Garden Island*?

Councilmember Yukimura: No...

Council Chair Rapozo: Listen, typically...

Councilmember Kagawa: You do articles all of the time in *The Garden Island*.

Council Chair Rapozo: Typically what happens is that a constituent has a concern, they see a Councilmember, the Councilmember does their due diligence, and then they come up with a bill or resolution. In this case, that never happened. If it happened then the public would be here. The public did not come today. For me, it is a matter of managing this Council. For me, it is a matter of what is working. This is working absolutely fine in my opinion. Ask the staff—a public hearing does take a toll on our staff. The bottom line is that if you believe that this is needed, then you support the Resolution and you support the public hearing. We have five (5) council and committee meetings left. Why in the world would we do this now? I do not know if you folks have noticed, but with the rule changes and with the enforcement of the rules, and maybe I am imagining this, but I will leave this up to you individually to think about this, we have had more new people testify at our meetings because of the structure. We have had more people that have come and testified on issues because of the rules and I get a lot of compliments. I do not take credit for it. It took the Council to enforce or pass the rules. I am trying my best to run these meetings in the most efficient way. I do not see a problem. I have not heard absolutely any complaints about the way this is being run. I have not heard anyone come up and say, written an E-mail, or called to say that they did not have an opportunity to testify because they came to the meeting late. Not once. I do not see a reason to change with two (2) months remaining in the term. With that, the motion is to hold a public hearing. Roll call.

The motion that Resolution No. 2016-56 be ordered to print, that a public hearing thereon be scheduled for October 5, 2016, and referred to the October 19, 2016 Council Meeting was then put, and failed by the following vote:

| | | |
|-----------------------|------------------------------------|-------------|
| FOR MOTION: | Chock, Hooser, Yukimura | TOTAL – 3*, |
| AGAINST MOTION: | Kagawa, Kaneshiro, Kualī'i, Rapozo | TOTAL – 4, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Chock was noted as silent, but shall be recorded as an affirmative vote for the motion.)*

Ms. Fountain-Tanigawa: The motion fails.

Council Chair Rapozo: I need a new motion.

Councilmember Kagawa moved to receive Resolution No. 2016-56 for the record, seconded by Councilmember Kualii.

Council Chair Rapozo: Any further discussion? Councilmember Kagawa.

Councilmember Kagawa: I commend Councilmember Yukimura. She followed your instructions basically and I think you said at one point that if you are not happy with the rules then propose a rule change. It is just that at times we start disagreeing with each other, but actually, I think it is just accepting that each of us has an opinion on an issue and we cannot always agree. On this one, apparently we do not agree that a change is needed that is even worth going to the public hearing because there are no problems. So she actually followed the instructions that you gave her and proposed the changes that she had wanted at the appropriate time, so kudos to her for doing it and following what your instructions were. Thank you.

Council Chair Rapozo: Any other discussion? That is true, Councilmember Kagawa. Rather than debate and argue whether a rule is right or wrong or good or bad, this was the process that is in place. You do a resolution for a rule change, express your concern and your justification, and we take the vote. That is how it should be done, rather than being argued on the floor. I do agree and I appreciate Councilmember Yukimura following the process. Councilmember Yukimura.

Councilmember Yukimura: The reason I did this rule is because I have two (2) major bills that I will be introducing in the next five (5) weeks, one on housing and one possibly on feral cats, and people need to be able to testify and this is the easier way for them to testify.

Council Chair Rapozo: Councilmember Yukimura, if you want to make an issue time specific, has this Chair ever refused any of your request to hold an item at a specific time?

Councilmember Yukimura: No, I am not talking about that. If you have several bills that want to be held at a certain time and so you have that bill that is going on, people still do not know when it is going to end and when they can testify. It is much easier if they can just speak up front.

Council Chair Rapozo: Okay. That is fine.

Councilmember Yukimura: Also, it is in the discretion of the Chair to allow people to speak more than twice, but the Chair's exercise of that discretion has been extremely restrictive.

Council Chair Rapozo: That is purposeful. I learned a long time ago that if you are consistent with everyone, then it is a lot easier.

Councilmember Yukimura: And it limits debate that is very important and discussions and facts and opinions and positions that should be part of the debate. It is a very arbitrary rule.

Council Chair Rapozo: Then I would suggest, like I said earlier, to come up with a rule change proposal on that issue.

Councilmember Yukimura: I will.

Councilmember Kaneshiro: I just want to say that if this thing went through, it is only the first six (6) people that will get to testify. If it is a big topic that is going to have a lot of people, everybody else is going to have to wait until it is on the agenda at some other time. I think the Chair has been very fair. The two-time talking rule, we know the rules. If you want to say where you stand on it in the beginning and wait and hold your comments until everybody talks, and then say one at the end, then we are open to doing that. You do not need to use your two right away and want to do a third.

Councilmember Yukimura: You do not have a free-flowing discussion if you have to think about everything you want to say. It is a response and back and forth that can be really creative problem-solving. So it is a very artificial, arbitrary restriction to say two (2) times and say everything that you want to say in two (2) times and it limits the minority opinion because there is many more who can speak, and then you do not have the time to respond. Also, if there are a lot of people to speak on the bill, then you use the rule about having that bill scheduled at the beginning. That is a different rule and a different circumstance.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Just because of what we have experienced in this last term, I felt like I needed to speak more towards some of what I understand in group dynamics. While I understand that we are not a “team” per se and we are all individual Councilmembers, any high-functioning group, I think, there are certain dynamics that need to be taken into consideration, which we have experienced at this table. One of those is that when we, what I call “conflict” or have discussion or debate, if that system is to work, continue to work, then we have to move from there at some point or another. That would require us to actually come to an agreement, that in this case, a vote, and that we move forward from it. So if we cannot move from it, the conflict will continue to exist, as it has right now. But if you are going to consider us moving forward as a highly-functioning group, then we have to consider that when votes are taken, we have to accept and move forward on them. That is a dynamic that, I think, has not been acknowledged at this table. That is all I wanted to say.

Council Chair Rapozo: If there is no further discussion, the motion is to receive. Roll call.

The motion to receive Resolution No. 2016-56 for the record was then put, and carried by the following vote:

| | | |
|-----------------------|---|------------|
| FOR RECEIPT: | Chock, Kagawa, Kaneshiro, Kualii, Rapozo | TOTAL – 5, |
| AGAINST RECEIPT: | Hooser, Yukimura | TOTAL – 2, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0 |

Ms. Fountain-Tanigawa: The motion to receive passes.

Council Chair Rapozo: We are going to adjourn this part of the meeting, but I do want to go back into Executive Session for ten (10) minutes to discuss the auditor interviews. If you could just oblige me with ten (10) minutes, we can go around the table and decide where we are going to go from here.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 6:11 p.m.

Respectfully submitted,


JADE K. FOUNTAIN-TANIGAWA
County Clerk

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(September 1, 2016)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2634), A Bill For An Ordinance To Amend Chapter 8, Kaua'i County Code 1987, As Amended, To Allow Multiple Family Dwelling Units In All Residential Zoning Districts (Kaua'i County Council, Applicant)

Introduced By: ARRYL KANESHIRO

Amend Proposed Draft Bill (No. 2634), SECTION 2, to read as follows:

"SECTION 2. Chapter 8 of the Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 Table of Uses, Sections 8-2.4(a)(1) through 8-2.4(f)(19), to read as follows:

"Table 8-2.4 Table of Uses

| Sec. | USE | ZONING DISTRICT | | | | | | | | |
|-----------------|---|-----------------|--------------|----|------------|----|------------|----|----|---|
| | | Residential | | RR | Commercial | | Industrial | | AG | O |
| | | R-1 to R-6 | R-10 to R-20 | | CN | CG | IL | IG | | |
| 8-2.4(a)(1) | Single family detached dwellings | P | P | | | | | | | |
| 8-2.4(a)(2) | Accessory structures and uses, including one (1) guest house on a lot or parcel 9,000 square feet or larger | P | P | | | | | | | |
| [8-2.4(a)(3)] | [Two (2) multiple family dwelling units or two (2) single family attached dwelling units upon a parcel of record as of June 30, 1980] | [P] | [P] | | | | | | | |
| [8-2.4(a)[(4)]] | [Notwithstanding subsection (3) above, multiple family and single family attached dwellings developed pursuant to a Federal, State or County housing program] | [P] | [P] | | | | | | | |
| 8-2.4(b) | Multiple family and single family attached dwellings [are permitted in districts R-10 and R-20 in addition to those types of residential uses and structures permitted under Subsection (a) above] | P | P | | | | | | | |
| 8-2.4(c) | Public and private parks and home businesses are permitted in all districts | P | P | | | | | | | |
| 8-2.4(d) | Adult family boarding and family care homes that comply with all State Department of Social Services and Housing and State Department of Health rules, regulations and requirements provided, however, that the Planning Director may require a use permit for such applications that may create adverse impacts to the health, safety, morals, convenience and welfare of the neighborhood or community that the proposed use is located | P | P | | | | | | | |
| 8-2.4(e) | Transient vacation rentals, | P | P | | | | | | | |

| Sec. | USE | ZONING DISTRICT | | | | | | | | |
|--------------------------|--|-----------------|--------------|----|------------|----|------------|----|----|---|
| | | Residential | | RR | Commercial | | Industrial | | AG | O |
| | | R-1 to R-6 | R-10 to R-20 | | CN | CG | IL | IG | | |
| | provided they are located within the designated Visitor Destination Areas established pursuant to Article 17 of this Chapter. These uses are prohibited in non-VDA areas | | | | | | | | | |
| 8-2.4(f)(1) | Botanical and zoological gardens | U | U | | | | | | | |
| 8-2.4(f)(2) | Cemeteries, mortuaries and crematoriums | U | U | | | | | | | |
| 8-2.4(f)(3) | Churches, temples, and monasteries | U | U | | | | | | | |
| 8-2.4(f)(4) | Clubs, lodges and community centers | U | U | | | | | | | |
| 8-2.4(f)(5) | Diversified and specialized agriculture and nurseries | U | U | | | | | | | |
| 8-2.4(f)(6) | Dormitories, guest and boarding houses; but not hotels and motels | U | U | | | | | | | |
| 8-2.4(f)(7) | Golf courses | U | U | | | | | | | |
| 8-2.4(f)(8) | Medical and nursing facilities | U | U | | | | | | | |
| 8-2.4(f)(9) | Museums, libraries and public services and facilities | U | U | | | | | | | |
| 8-2.4(f)(10) | Private and public utilities and facilities, other than maintenance and storage of equipment, materials, and vehicles | U | U | | | | | | | |
| 8-2.4(f)(11) | Project developments in accordance with Article 10 of this Chapter | U | U | | | | | | | |
| 8-2.4(f)(12) | Retail shops and stores | U | U | | | | | | | |
| 8-2.4(f)(13) | School and day care centers | U | U | | | | | | | |
| 8-2.4(f)(14) | Transportation terminals and docks | U | U | | | | | | | |
| [8-2.4(f)(15)] | [Three (3) or more multiple family dwelling units upon a parcel of record as of June 30, 1980, in the R-1, R-2, R-4, or the R-6 District] | [U] | [P] | | | | | | | |
| [8-2.4(f)(16)] | [Three (3) or more single family attached dwelling units upon a parcel of record as of June 30, 1980, in the R-1, R-2, R-4 or the R-6 District] | [U] | [P] | | | | | | | |
| 8-2.4(f)[(17)] <u>15</u> | Residential care homes | U | U | | | | | | | |
| 8-2.4(f)[(18)] <u>16</u> | Adult family group living home | U | U | | | | | | | |
| 8-2.4(f)[(19)] <u>17</u> | Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District" | U | U | | | | | | | |

(Material to be deleted is bracketed. New material is underscored.)
(V:\AMENDMENTS\2016\9-7-16 Bill No. 2634 Multiple Family Dwellings-AK-YS_lc.doc)

(September 7, 2016)

FLOOR AMENDMENT

Bill No. 2637, A Bill For An Ordinance Amending Ordinance No. B-2016-812, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2016 Through June 30, 2017, By Revising The Amounts Estimated In The General Fund

Introduced By: KIPUKAI KUALI'I

Amend Bill No. 2637 in its entirety to read as follows:

“BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. That pursuant to Sections 19.07B and 19.10A of the Charter of the County of Kaua'i, as amended, Ordinance No. B-2016-812, as amended, relating to the Operating Budget of the County of Kaua'i, State of Hawai'i, for the Fiscal Year July 1, 2016 through June 30, 2017, be hereby amended as follows:

The sum of [\$53,773.00] \$43,473.00 by revising the amounts estimated in the General Fund from the following account:

| | | |
|--------------------|------------------------------------|----------------|
| 001-0000-271.00-00 | Equity / Fund Balance – Unassigned | [\$43,473.00] |
|--------------------|------------------------------------|----------------|

Be and is hereby appropriated for the following purpose:

[001-0901-512.30-00]

| | | |
|---------------------------|--------------|---------------------------------|
| <u>001-0901-512.36-00</u> | Grant In Aid | [\$53,773.00] <u>43,473.00</u> |
|---------------------------|--------------|---------------------------------|

Special Events Security –
 Visitor Industry Charity Walk
 Hā'ena to Hanalei Run
 Kamehameha Day Parade
 Kaua'i Farm Bureau Fair
 [Kaua'i Hospice 4th of July]
 Kaua'i Veterans Day Parade
 [Kekaha 4th of July]
 Kōloa Plantation Days Parade
 Lights on Rice Street
 Old Kōloa Sugar Mill Run
 [Pilgrimage of Compassion]
 Relay for Life Hanapēpē
 Waimea Town Celebration

SECTION 2. This Ordinance shall take effect upon its approval.”

(Material to be deleted is bracketed. New material is underscored.)

V:\AMENDMENTS\2016\9-7-16 Bill No 2637 OED Money Bill YS_dmc.doc